314 CMR 5.00: GROUND WATER DISCHARGE PERMIT PROGRAM

5.01: Purpose, Authority, and Scope

314 CMR 5.00 establishes the program whereby discharges of pollutants to the ground waters of the Commonwealth are regulated by the Department to prevent ground water contamination pursuant to the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 27 and 43. In addition to regulating these discharges, M.G.L. c. 21, §§ 26 through 53 requires that the Department regulate the outlets for such discharges and any treatment works and best management practices associated with these discharges. Through 314 CMR 5.00, the Department controls the discharge of pollutants to the ground waters of the Commonwealth to assure that ground waters are protected for their actual and potential use as a source of potable drinking water and surface waters are protected for their existing and designated uses and to assure the attainment and maintenance of the surface water quality standards set forth in 314 CMR 4.00.

5.02: Definitions

As used in 314 CMR 5.00, the following words and phrases have the following meaning:

Aquifer- a geological formation, group of formations or part of a formation that is capable of yielding a significant amount of water to a well or spring.

Best Management Practices or BMPs - schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the Commonwealth. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage, or leaks, sludge or waste disposal, or drainage from raw material storage.

Biological Monitoring - any test which includes the use of aquatic algal, bacterial, invertebrate, or vertebrate species to measure acute or chronic toxicity, and any biological or chemical measure of bioaccumulation.

Blackwater- wastewater from toilets, urinals and other drains equipped with garbage grinders.

Boiler Blow Down-wastewater resulting from periodic or continuous bleed off of water from a boiler during operation for the purpose of eliminating excess solids from the boiler water which may include steam condensate from boiler operations. Boiler blow down does not include the wastewater and waste alkaline cleaning solution generated by the use of acidic cleaning solution to remove scale or other contaminants from a boiler or the use of hot alkaline cleaning solution to remove oil and grease, protective coatings or soil from a new boiler prior to operation.

Bypass - the diversion of wastes from any portion of a treatment works.

Combined Sewer System - a sewer system, which by design conveys both wastewaters and storm water runoff.

Confined Disposal Facility- a facility created in open water or wetlands consisting of confinement walls or berms built up or extending into existing land and is a "confined disposal facility" as defined in 314 CMR 9.02.

Commissioner - the Commissioner of the Department.

Contact Cooling Water - water used to reduce temperature, which comes into contact with a raw material, intermediate product, waste product (other than heat), or finished product.

Conventional Pollutants- biochemical oxygen demand, suspended solids, pH, fecal coliform, and oil and grease.

Department - the Massachusetts Department of Environmental Protection.

Discharge or Discharge of Pollutants - any addition of any pollutant or combination of pollutants to waters of the Commonwealth from any source, including but not limited to, discharges from surface runoff which are collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to POTWs; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any indirect discharger.

Disposal Site- a structure, well, pit, pond, lagoon, impoundment, ditch, landfill or other place or area, excluding ambient air or surface water, where uncontrolled oil or hazardous material has come to be located as a result of any spilling, leaking, pouring, ponding, emitting, emptying, discharging, injecting, escaping, leaching, dumping, discarding, or otherwise disposing of such oil or hazardous material and is a disposal site as defined in M.G.L. c. 21E.

Disposal System -a system for disposing of sewage, industrial waste or other wastes, and including sewer systems and treatment works.

Dry Well -a pit with open jointed lining or holes through which stormwater drainage from roofs, basement floors, foundations, water purification or filtration devices, or other areas seeps into the surrounding soil.

Effluent- a discharge of pollutants into the environment, whether or not treated.

Effluent Limitation or Effluent Limit - any requirement, restriction, or standard imposed by the Department on quantities, discharge rates, and concentrations of pollutants which are discharged from point sources into waters of the Commonwealth, to publicly owned treatment works, or to a reclaimed water distribution system so that it may be beneficially reused as reclaimed water in accordance with 314 CMR 20.00.

Effluent Limitation Guideline or Effluent Standard - a regulation published by the EPA Administrator under the Federal Act or by the Department under M.G.L. c. 21, § 27, which is used as a basis for establishing effluent limitations.

Environmental Protection Agency or EPA - the United States Environmental Protection Agency.

Facility or Facilities- any and all devices, processes and properties real or personal used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation or reuse of water borne pollutants but not including any works receiving a hazardous waste from off the site of the works for the purpose of treatment, storage, or disposal.

Filtered Water-an oxidized coagulated wastewater which has been passed through natural undisturbed soils or filter media so that the turbidity as determined by an approved laboratory method does not exceed an average operating turbidity of 2 nepheolmetric turbidity units (NTU) in any 24 hour period, nor exceed 5 NTU more than 5 percent of the time, and does not exceed 10 NTU at any time.

Federal Act - the Clean Water Act, 33 U.S.C.§§ 1251 et seq.

Graywater- any putrescible wastewater from domestic activities including but not limited to washing machines, sinks, showers, bath tubs, dishwashers, or other sources except toilets, urinals and drains equipped with garbage grinders.

Ground Water - water below the land surface in a saturated zone, including perched ground water.

Ground Water Travel Time or Ground Water Time of Travel- the time it takes a particle of water to flow through an aquifer from one point to another point of lower hydraulic gradient.

Hazardous Substance - any of the substances designated under 40 CFR Part 116 pursuant to the Federal Act or any hazardous material as defined in M.G.L. c. 21E.

Hazardous Waste - a hazardous waste pursuant to the Massachusetts Hazardous Waste Regulations, 310 CMR 30.000.

Health Advisory - the level of a pollutant in water at which, with a margin of safety, adverse health effects would not be anticipated as determined by the Department or EPA.

Illicit discharge to a stormwater management system - a discharge to the stormwater management system that is not entirely comprised of stormwater. Notwithstanding the foregoing, an illicit discharge does not include discharges from the following activities or facilities: firefighting, water line flushing, landscape irrigation, uncontaminated ground water, potable water sources, foundation drains, air conditioning condensation, footing drains, individual resident car washing, flows from riparian habitats and wetlands, dechlorinated water from swimming pools, water used for street washing, and water used to clean residential buildings without detergents.

Indirect Discharger - a discharger introducing pollutants to a treatment works.

Industrial Waste - any liquid, gaseous, or solid waste substance or a combination thereof resulting from any process of industry, manufacturing, trade, or business or from the development or recovery of any natural resources.

Infiltration/Inflow (I/I)- extraneous flow that enters a sewerage system through a variety of defects and illegal connections.

Infiltration-water other than wastewater that enters a sewer system (including sewer service connections and foundation drains) from the ground through means which include, but are not limited to, defective pipes, pipe joints, connections, or manholes. Infiltration does not include and is distinguished from inflow.

Inflow– water other than sanitary flow that enters a sewer system (including sewer service connections) from sources which include, but are not limited to, roof leaders, cellar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, connections between storm and sanitary sewers, catch basins, cooling towers, stormwater, surface runoff, or street drainage. Inflow does not include and is distinguished from infiltration.

Interim Wellhead Protection Area or IWPA– an Interim Wellhead Protection Area as defined in 310 CMR 22.02. Generally, this is a one half-mile radius from the well or wellfield for sources whose approved pumping rate is 100,000 gallons per day or greater. For smaller sources, the radius in feet is determined by multiplying the approved pumping rate in gallons per minute by 32 and adding 400.

Land uses with higher potential pollutant loads- the following land uses are land uses with higher potential pollutant loads: land uses identified in 310 CMR 22.20B(2), 310 CMR 22.20C(2)(a) - (k) and (m), 310 CMR 22.21(2)(a)(1) - (8), and 310 CMR 22.21(2)(b)(1) - (6); areas within an industrial site that are the location of activities subject to an individual National Pollutant Discharge Elimination System (NPDES) stormwater permit or the NPDES Multi Sector General Permit; auto fueling facilities (gas stations); exterior fleet storage areas; exterior vehicle service and equipment cleaning areas; marinas and boatyards; parking lots with high intensity use, confined disposal facilities and disposal sites.

Leachate- any liquid including any suspended or dissolved components in the liquid that has percolated through or drained from a landfill or other solid waste disposal site.

Local Government Unit -a town, city, district, commission, agency, authority, board or other instrumentality of the Commonwealth or any of its political subdivisions including a regional government unit.

Massachusetts Water Quality Standards - the Massachusetts Surface Water Quality Standards (314 CMR 4.00).

Milligrams Per Liter-or mg/l the weight in milligrams of any specific substance or substances contained in one liter of solution.

Monitoring Well-a well that is specifically designed, constructed, emplaced and located to measure the impact of a discharge of pollutants upon ground water quality.

Natural Background Conditions - the chemical, physical or biological characteristics of surface or ground waters unaltered by human activity.

Nephelometric Turbidity Unit (NTU)- measurement of turbidity as measured by the ratio of the intensity of light scattered by a sample to the intensity of incident light as measured by method 2130B in “Standard Methods for

the Examination of Water and Wastewater".

Non-contact Cooling Water - water used to reduce temperature which does not come into direct contact with any raw material, intermediate product, waste product (other than heat), or finished product.

No Exposure Certification – a certification of no exposure- for a new or increased discharge of stormwater runoff from a land use with a higher potential pollutant load, a certification that all land uses that have the potential to generate higher pollutant loads are protected from exposure to rain, snow, snowmelt or runoff; for a "storm water discharge" designated by the Department pursuant to 314 CMR 5.04(2)(a), a certification, that the source or potential source of pollutants responsible for the designation are protected from exposure to rain, snow, snowmelt or runoff.

Nutrient Sensitive Environmental Areas- embayments, ponds, lakes, rivers, or wetlands, deemed by the Department to contain detrimental concentrations of nutrients after site-specific assessments and other areas deemed sensitive to nutrients by the Department on a site-specific basis.

Other Wastes - all liquid discarded matter other than sewage or industrial waste, which may cause or might reasonably be expected to cause pollution of the waters of the Commonwealth in contravention of adopted standards.

On-site Subsurface Sewage Disposal System-a system or series of systems for the treatment or disposal of sanitary sewage below the ground in accordance with 310 CMR 15.000.

Oxidized Wastewater– wastewater in which the organic matter has been stabilized such that the biochemical oxygen demand (BOD) does not exceed 30 mg/l and the total suspended solids (TSS) does not exceed 30 mg/l and contains dissolved oxygen.

Outlet - the terminus of a sewer system, or the point of emergence of any water-borne sewage, industrial waste or other wastes or the effluent therefrom, into the waters of the Commonwealth or on the land surface.

Perched Ground Water - unconfined ground water separated from an underlying body of ground water by an unsaturated zone.

Permit –an authorization issued pursuant to M.G.L. c. 21, § 43 and 314 CMR 2.00, and 3.00, 5.00, 7.00, or 20.00 to implement the requirements of the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26-53, the Clean Water Act, 33 U.S.C. 1251 et seq. and the NPDES regulations, 40 CFR Part 122. Depending on the context in 314 CMR 5.00, the term "permit" applies to (a) an individual permit that regulates one or more discharges by a discharger and/or (b) a general permit that regulates one or more categories of discharges and covers multiple dischargers who have properly applied for coverage under the general permit.

Person - any agency or political subdivision of the Commonwealth, the Federal government, any public or private corporation or authority, individual, partnership or association, or other entity, including any officer of a public or private agency or organization, upon whom a duty may be imposed by or pursuant to any provisions of M.G.L. c. 21, §§ 26 through 53.

Point Source - any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

Pollutant - any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter, in whatever form and whether originating at a point or major non-point source, which is or maybe discharged, drained or otherwise introduced into any sewerage system, treatment works or waters of the Commonwealth.

Pollution-the presence in the environment of pollutants in quantities or characteristics which are or may be injurious to human, plant or animal life or to property or which unreasonably interfere with the comfortable enjoyment of life and property throughout such areas as may be affected thereby.

Potable Water-waters used for drinking, hand washing, culinary, or food processing purposes.

Pretreatment –the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW.

Privately Owned Wastewater Treatment Facility or PWTF- any device or system owned by a private entity that is used in the treatment and disposal (including recycling and reclamation) of sanitary or industrial wastewater of a liquid nature. A Privately Owned Wastewater Treatment Facility includes the sewers, pipes or other conveyances that convey the wastewater to the treatment facility.

Privately Owned Wastewater Treatment Facility Service Area– the area served by a Privately Owned Wastewater Treatment Facility including any real property, any abutting real property and any buildings thereon which is served or could be served by the Privately Owned Wastewater Treatment Facility.

Publicly Owned Treatment Works or POTW - any device or system used in the treatment and disposal (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature, which is owned by a local government unit. A POTW includes any sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

RCRA - the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901-6992k.

RCRA Facility - a hazardous waste management facility as defined in 314 CMR 8.03.

Reclaimed Water- wastewater that is treated so that it is suitable for beneficial reuse in accordance with 314 CMR 20.00.

Reclaimed Water Distribution System-a system that distributes reclaimed water so that it may be reused in accordance with 314 CMR 20.00.

Reclaimed Water System- a treatment works that includes a system for treating wastewater so that it may be beneficially reused in accordance with 314 CMR 20.00. A reclaimed water system may be a privately owned wastewater treatment facility that treats sewage only or a POTW.

Reject Water from a reverse osmosis facility – sidestream wastewater from reverse osmosis treatment units.

Residential Uses or Residential Developments-apartment buildings, townhouses, condominiums, cooperatives, single family homes, two and three family homes, hospitals, nursing homes, assisted living facilities, rehabilitation facilities, dormitories, and homeless shelters. Residential uses do not include hotels and motels.

Satellite Reclaimed Water System- a system for the distribution, use, sale, or offering for use, sale or distribution of reclaimed water in accordance with 314 CMR 20.00 that does not include any facilities for wastewater treatment.

Saturated Zone - any portion of the earth below the land surface where every available opening (pore, fissure, joint, or solution cavity) is filled with water.

Secondary Treatment- the process or group of processes capable of removing from untreated wastewater a minimum of 85% of the five day biochemical oxygen demand and suspended solids and virtually all floating and settleable solids followed by disinfection.

Septage- the liquid and solid wastes, primarily of sewage origin, that are removed from a cesspool, septic tank or similar receptacle.

Sewage – greywater or blackwater or a combination of greywater and blackwater from domestic, commercial or non-industrial sources. Sewage does not include stabilized wastes.

Sewer System - pipelines or conduits, pumping stations, force mains, and all other structures, devices, appurtenances, and facilities used for collecting and conveying wastes to a site or works for treatment or disposal.

State Act - the Massachusetts Clean Waters Act, as amended, M.G.L. c. 21, § 26 through 53.

Stormwater-stormwater runoff, snow melt runoff, surface runoff and drainage.

Stormwater Best Management Practice- a structural or nonstructural technique for managing stormwater to prevent or reduce non-point source pollutants from entering surface waters or ground waters. A structural stormwater best management practice includes a basin, discharge outlet, swale, rain garden, filter, or other stormwater treatment practice or measure either alone or in combination including without limitation any discharge pipe, overflow pipe, conduit, or weir control structure that: (a) is not naturally occurring; (b) is not designed as a wetland replication area; and (c) has been designed, constructed, and installed for the purpose of conveying, collecting, storing, discharging, recharging or treating stormwater. Nonstructural stormwater best management practices include source control and pollution prevention measures.

Stormwater Management System- a system for conveying, collecting, storing, discharging, recharging or treating stormwater on-site including stormwater best management practices and any pipes and outlets intended to transport and discharge stormwater to the ground water, a surface water or a municipal storm sewer.

Total Dissolved Solids- the total dissolved (filterable) solids as determined by the use of the method specified in 40 CFR Part 136 or other method approved by the Department.

Total Maximum Daily Load-the maximum load of a pollutant that a surface water may receive from point sources, nonpoint sources and natural background conditions without violating the surface water quality standards set forth in 314 CMR 4.00.

Total Organic Carbon-the oxidizable organic carbon present in treated sewage as measured by a Massachusetts

certified laboratory.

Toxic Pollutants - those pollutants identified in 314 CMR 3.17 or any other pollutants, or combination of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly through food chains, may, on the basis of information available to the Department, cause death, disease, behavioral abnormalities, cancer, mutations, physiological malfunctions, biochemical abnormalities, including malfunctions in reproduction, or physical deformations, in such organisms or their offspring.

Treatment Works - any and all devices, processes and properties, real or personal, used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation or reuse of waterborne pollutants, but not including any works receiving a hazardous waste from off the site of the works for the purpose of treatment, storage or disposal.

Uncontaminated Water - water which does not contain dredge spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological waste materials, radioactive materials, wrecked or discarded equipment, cellar dirt, industrial, municipal or agricultural waste or any other material which upon discharge could cause a violation of applicable water quality standards.

Underground Source of Drinking Water-an aquifer or any portion which supplies a public water supply system or which contains a sufficient quantity of ground water to supply a public water system and either currently supplies drinking water for human consumption or contains less than 3000 mg/l total suspended solids. Every aquifer shall be presumed to be an underground source of drinking water unless otherwise determined by the Department in accordance with 310 CMR 5.10(9)(a)(1).

Unsaturated Zone -that portion of the earth's crust, which does not contain sufficient water to fill all interconnected voids or pore spaces. Perched water bodies may exist within the unsaturated zone.

Wastewater - sewage, industrial waste, other wastes or any combination of the three.

Waters of the Commonwealth - all waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and ground waters.

Well – a bored, drilled or driven shaft or dug hole, which depth is greater than its largest surface dimension.

Zone A- the land between a surface water source and the upper boundary of the bank as defined in 310 CMR 22.02, to include the land within a 400 foot lateral distance from the upper boundary of a bank of a Class A surface water source as defined in 314 CMR 4.05(3)(a), and the land within a 200 foot lateral distance from the upper boundary of the bank of a tributary or associated surface water body.

Zone I- the protective radius required around a public water supply well or wellfield as defined in 310 CMR 22.02. For public water supply systems with approved yields of 100,000 gallons per day (gpd) or greater, the protective radii for all other public water system wells are determined by the following equation: Zone I radius in feet =[150 x log of pumping rate in gpd]-350.

Zone II- the area of an aquifer that contributes water to a well under the most severe pumping and recharge conditions that can realistically be anticipated as defined in 310 CMR 22.02.

5.03: Discharges Requiring a Permit

(1) No person shall discharge pollutants to ground waters of the Commonwealth without a currently valid permit from the Department pursuant to M.G.L. c. 21, § 43 and 314 CMR 5.00, except as otherwise provided in 314 CMR 5.05. No person shall construct, install, modify, operate or maintain an outlet for such a discharge or any treatment works required to treat such discharge without having first obtained a discharge permit in accordance with 314 CMR 5.03(1) and written approval from the Department for such activity, except as otherwise provided in 314 CMR 5.05. The Department may require any person to provide information to determine whether that person is subject to M.G.L .c. 21, §§ 26-53 and 314 CMR 5.00 or in violation of M.G.L. c. 21, §§ 26-53 or 314 CMR 5.00. Any person who discharges or proposes to discharge to ground waters of the Commonwealth may apply for an individual permit or request coverage under a general permit by filing the appropriate forms in accordance with 314 CMR 5.00 and 2.00.

(2) Except as otherwise provided in 314 CMR 5.05, activities which constitute discharges of pollutants requiring a permit under 314 CMR 5.03(1) include, but are not limited to, the construction, installation, modification, operation or maintenance of the facilities listed below:

(a) A facility which discharges a liquid effluent onto or below the land surface;
(b) A facility, which discharges a liquid effluent to a percolation pit, infiltration basin, or lagoon;
(c) A facility which discharges a liquid effluent via a soil absorption system, including but not limited to, leaching pits, galleries, chambers, trenches, fields and pipes;
(d) A facility which discharges a liquid effluent into a Class V injection well as defined in 310 CMR 27.00; or
(e) A facility with an associated unlined pit, basin, lagoon, or surface impoundment in which wastewaters or sludges are collected, stored, treated, or disposed and from which a liquid portion seeps into the ground.

5.04: Other Activities Requiring a Permit

(1) No person shall engage in any other activity, other than those described in 314 CMR 5.03, which may reasonably result, directly or indirectly, in the discharge of pollutants into ground waters of the Commonwealth, without a currently valid permit from the Department, pursuant to 314 CMR 5.00 and 2.00, except as otherwise provided in 314 CMR 5.05. Any person who engages or proposes to engage in such activities may obtain an individual permit, or if applicable, request coverage under a general permit, by filing the appropriate forms in accordance with 314 CMR 5.00 and 2.00.

(2) Such other activities shall specifically include, but not be limited to:

Storm Water Discharges to the ground as defined herein.

"Storm water discharges" means a conveyance or system of conveyances (including pipes, conduits, ditches and channels) primarily used for collecting and conveying stormwater runoff, but not including combined municipal sewer systems, and which includes the following discharges:

(a) The Department may designate a conveyance or one or more systems of conveyances primarily used for collecting and conveying stormwater runoff as a "storm water discharge." This designation shall be made by the Department when:

1. The Department determines that a stormwater discharge is or may be a significant contributor of pollution to waters of the Commonwealth. In making this determination, the Department shall consider the following factors:
    a. The location of the discharge with respect to waters of the Commonwealth;

b. The size of the discharge;
c. The quantity and nature of the pollutants reaching waters of the Commonwealth;
d. The water quality standards applicable to any receiving waters that are surface waters; and
e. Other relevant factors.

2. The Department determines that a discharge of stormwater runoff is contaminated by contact with process wastes, raw materials, toxic pollutants, hazardous substances or oil and grease. or
3. The Department determines that a discharge of stormwater is located in an industrial plant or in plant associated areas, if there is a potential for significant discharges of stormwater contaminated by contact with process wastes, raw materials, toxic pollutants, hazardous substances or oil and grease. "Plant associated areas" mean industrial plant yards, immediate access roads, drainage basins, refuse piles, storage piles or areas, and material or product loading and unloading areas. The term excludes areas located on plant lands separate from the plant's industrial activities such as office buildings and accompanying parking lots.

(b) Except as otherwise provided in 314 CMR 5.05(8), a new or increased discharge of stormwater runoff from a land use with a higher potential pollutant load. A new or increased discharge of stormwater runoff from a land use with a higher potential pollutant load occurs, if at any time after *date* (the effective date of the proposed regulatory revision) the following work occurs on a site with a land use with a higher potential pollutant load: site preparation, construction, redevelopment, excavation, an increase in impervious surface, or a modification of the stormwater management system, hydrology or drainage patterns. A new or increased discharge of stormwater runoff from a land use with a higher potential pollutant load also occurs whenever there is new development that results in a land use with a higher potential pollutant load or a change in use that results in a new or different land use with a higher potential pollutant load.

5.05: Activities Not Requiring a Permit

The following activities are not required to obtain a permit pursuant to M.G.L. c. 21, § 43 and 314 CMR 5.00:

(1)(a) The construction, installation, modification, operation or maintenance of a facility which discharges a liquid effluent as a result of the treatment of sewage at a treatment works which is designed to receive and receives less than 10,000 gallons per day, provided that such facility and treatment works are designed, approved, constructed and maintained in accordance with 310 CMR 15.000, *The State Environmental Code, Title 5, Standard Requirements For the Siting, Construction, Inspection, Upgrade and Expansion of On-Site Sewage Treatment and Disposal Systems and for the Transport and Disposal of Septage* (Title 5).

(1)(b) The operation and maintenance of a facility which discharges a liquid effluent as a result of the treatment of sewage at a treatment works which is designed to receive and receives 10,000 to 15,000 gallons per day or less, provided that the facility and treatment works were designed, approved, constructed and have been and are operated and maintained in accordance with *Title 5* and its predecessor Codes, as applicable and provided further that the facility is not located in a nutrient sensitive area as defined in 310 CMR 15.215 or the Zone A of a public water system.

(1)(c) As used in 314 CMR 5.05(1)(a) and (b), the word "maintained" includes, but is not limited to, upgraded if

upgrading is required by Title 5, 310 CMR 15.000. The word “maintained” does not include changes to a facility that require compliance with the provisions of Title 5, 310 CMR 15.000, applicable to the new construction of an on-site subsurface sewage disposal system.

(2) The construction, installation, modification, operation or maintenance of a recharge well used exclusively to replenish the water in an aquifer with uncontaminated water.

(3) A discharge in compliance with the written instructions of an On-Scene Coordinator pursuant to 33 CFR Part 153 –Control of Pollution by Oil and Hazardous Substances, Discharge Removal and 40 CFR Part 300, Subchapter J - Superfund, Emergency Planning, and Community Right-To-Know Programs, Subparts B and C, or if conducted as an Immediate Response Action in compliance with M.G.L. c. 21E and the regulations promulgated thereunder, 310 CMR 40.0000, or if approved in writing by the Department, as necessary to abate, prevent, or eliminate an imminent hazard to the public health, or safety, welfare or the environment.

(4) The construction, installation, modification, operation or maintenance of a salt water intrusion barrier well used to inject uncontaminated water into a fresh water aquifer to prevent the intrusion of salt water into the fresh water.

(5) The construction, installation, modification, operation or maintenance of a facility used to return to the ground the waters used for heating or cooling energy in a closed loop geothermal well provided that:

(a) The facility is not located within the Zone I or Zone A of a public water supply or within 150 feet of a private water supply line or suction line;

(b) The recirculated fluid used in the closed loop geothermal well is non-toxic;

(c) The closed loop geothermal line has a minimum set back distance of 50 feet from the soil absorption system of an on-site subsurface sewage disposal system designed, constructed, operated and maintained in accordance with Title 5, 310 CMR 15.000;

(d) The well meets the grouting standards established by the International Ground Source Heat Pump Association; and

(e) The well is installed by a Massachusetts Registered Well Driller.

(6) The construction, installation, modification, operation or maintenance of a facility used to discharge non-contact cooling waters that do not contain any chemical additives, including without limitation any anti-fungal bactericides, provided the temperature of the wastewater does not exceed 40°C.

(7) The construction, installation, modification, operation or maintenance of a facility that recirculates sanitary landfill leachate on top of the sanitary landfill over an area that has been specifically designed, constructed, operated and maintained with a liner and collection system for the purpose of recycling the leachate in accordance with 310 CMR 19.000.

(8) The construction, installation, modification, operation, or maintenance of a conveyance or system of conveyances operated primarily for the purpose of collecting and conveying stormwater runoff that does not constitute a “storm water discharge”.

(a) A new and increased discharge of stormwater runoff from a land use with a higher potential pollutant

load as described in 314 CMR 5.04(2)(b) is not a “storm water discharge” that requires a permit in accordance with 314 CMR 5.04(2) provided that:

1. All land uses with a higher potential pollutant load that are located or proposed to be located on the site are protected or will be protected from exposure to rain, snow, snow melt, or runoff;

2. The discharger has certified to the Department in accordance with 314 CMR 5.05A that all land uses with a higher potential pollutant load located or proposed to be located on the site are protected or will be protected from exposure to rain, snow, snow melt or runoff; and

3. The Department has accepted the No Exposure Certification and the No Exposure Certification is still in effect as provided in 314 CMR 5.05A.

(b) A “storm water discharge” previously designated by the Department as provided in 314 CMR 5.04(2)(a) is no longer a “storm water discharge” that requires a permit in accordance with 314 CMR 5.04 provided that:

1. The discharger has protected the source of the pollutants that have contaminated or have the potential to contaminate the discharge from exposure to rain, snow, snow melt or runoff;

2. The discharger has certified to the Department in accordance with 314 CMR 5.05A that all such exposure has been eliminated; and

3. The Department has accepted the No Exposure Certification and the No Exposure Certification is still in effect as provided in 314 CMR 5.05A.

(9) Any introduction of pollutants from non point source agricultural, silvicultural, land management or right-of-way maintenance activities including runoff from orchards, cultivated crops, pastures, range lands, forest lands and rights-of-way, but not including point source discharges from concentrated animal feeding operations, discharges of silvicultural process water or any “storm water discharges” as defined in 314 CMR 5.04(2).

(10) The construction, installation, modification, operation and maintenance of any landfill approved by the Department pursuant to 310 CMR 19.00 provided that such facility is not a point source and does not result in a discharge which causes a violation of the surface water quality standards set forth in 314 CMR 4.00, impair the use of the ground water as an actual or potential source of potable water or result in a threat to public health, safety or welfare.

(11) Any land application of sewage sludge provided it is performed in accordance with 310 CMR 32.00 and a plan approved by the Department.

(12) The construction, installation, modification, operation and maintenance of a reclaimed water system in accordance with all the terms and conditions of a permit issued by the Department pursuant to 314 CMR 20.00.

(13) The construction, installation, modification, operation and maintenance of a satellite reclaimed water system in accordance with 314 CMR 20.00.

(14) The use of reclaimed water in accordance with 314 CMR 20.00.

(15) Any discharge that results from a response action conducted or performed in accordance with the provisions of M.G.L. c. 21E and the regulations promulgated thereunder, 310 CMR 40.0000 or for the purpose of remediation at a release site pursuant to the provisions of the Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA) 42 U.S.C. 9601-9675 or the Resource Conservation and Recovery Act (RCRA) 42 U.S.C. 6901-6922K.

5.05A: Requirements for Certain Discharges of Stormwater Runoff

(1) Prior to commencing any activity that may result in a discharge of stormwater runoff or a new or increased discharge of stormwater runoff from a land use with a higher potential pollutant load as described in 314 CMR 5.04(2)(b), the discharger shall submit one of the following on a Department approved form: an application for an individual permit in accordance with 314 CMR 5.09 and 314 CMR 5.16, a notice of intent requesting coverage under a general permit in accordance with 314 CMR 5.13 and 314 CMR 5.16, or a No Exposure Certification.

(2) A new or increased discharge of stormwater runoff from a land use with a higher potential pollutant load as described in 314 CMR 5.04(2)(b) remains a "storm water discharge" that requires a permit as provided in 314 CMR 5.04(2), unless the Department has accepted the No Exposure Certification submitted by the discharger, and said Certification remains in effect. Once accepted, a No Exposure Certification submitted in accordance with 314 CMR 5.05A(2) remains in effect for a period of five years from the date of acceptance by the Department or until there is a new or increased discharge of stormwater runoff from a land use with a higher potential pollutant load, as described in 314 CMR 5.04(2)(b), whichever first occurs.

(3) At least 60 days prior to the expiration of a No Exposure Certification accepted by the Department in accordance with 314 CMR 5.05A(2), the discharger shall submit to the Department a new No Exposure Certification or a certification that all land uses with a higher potential pollutant load as described in 314 CMR 5.04(2)(b) have been terminated, an application for an individual permit in accordance with 314 CMR 5.09 and 314 CMR 5.16 or a notice of intent requesting coverage under a general permit in accordance with 314 CMR 5.13 and 314 CMR 5.16.

(4) If the Department designates a stormwater discharge as a "storm water discharge" as provided in 314 CMR 5.04(2)(a), the discharger shall submit one of the following on a Department approved form by the deadline set forth in the notice informing the discharger of the designation or as otherwise directed by the Department: an application for an individual permit in accordance with 314 CMR 5.09 and 314 CMR 5.16, a notice of intent requesting coverage under a general permit in accordance with 314 CMR 5.13, and 314 CMR 5.16, or a No Exposure Certification.

(5) A stormwater discharge designated by the Department as a "storm water discharge" as provided in 314 CMR 5.04(2)(a) remains a "storm water discharge" that requires a permit as provided in 314 CMR 5.04(2) unless the Department has accepted a No Exposure Certification submitted by the discharger in accordance with 314 CMR 5.05A(4) and such Certification remains in effect. Once accepted, a No Exposure Certification submitted in accordance with 314 CMR 5.05A(4) remains in effect until the Department designates the discharge as a "storm water discharge" as provided in 314 CMR 5.04(2)(a).

5.06: Restrictions on the Issuance of a Permit

The Department shall not issue a permit pursuant to 314 CMR 5.00:

(1) When the discharge will cause or contribute to a condition in contravention of standards for classified waters

of the Commonwealth, pursuant to 314 CMR 4.00.

(2) For the discharge of any radiological, chemical, or biological warfare agent or high-level radioactive waste.

(3) For a "storm water discharge" as defined in 314 CMR 5.04(2) to the ground within the Zone I of a ground water source of a public water system or the Zone A of a surface water source for a public water system, unless such discharge is necessary to the operation and maintenance of the public water system.

(4) For a "storm water discharge" as defined in 314 CMR 5.04(2) to the ground within 100 feet of a private source of potable water.

(5) For a "storm water discharge" as defined in 314 CMR 5.04(2) to the ground within the Zone II or Interim Wellhead Protection Area of a public water system that is wholly or partially comprised of stormwater runoff from a land use or activity that is listed in 310 CMR 22.21(2)(a)(1) - (8) or 310 CMR 22.21(2)(b)(1) -(6). Notwithstanding the foregoing, the Department may issue an individual permit or coverage under a general permit for a "storm water discharge" as defined in 314 CMR 5.04(2) to the ground within the Zone II or Interim Wellhead Protection Area of a public water system that is wholly or partially comprised of stormwater runoff from a land use or activity listed in 310 CMR 22.21(2)(a)(1) - (8) or 310 CMR 22.21(2)(b)(1) - (6) provided that the land use or activity commenced on or before *date* (effective date of regulations) and provided further that no action is proposed that will increase the annual average volume as determined in accordance with the Massachusetts Stormwater Handbook of stormwater runoff from a land use or activity listed in 310 CMR 22.21(2)(a)(1) -(8) or 310 CMR 22.21(2)(b)(1) - (6).

(6) For a discharge to the ground within the Zone II or Interim Wellhead Protection Area of effluent from a treatment works that is described in 310 CMR 22.21(2)(a)(6). Notwithstanding the foregoing, the Department may issue an individual permit for such discharge if such discharge was permitted on or before *date* (effective date of regulations) and provided further that no action is proposed that will increase the volume of effluent that will be discharged from said treatment works.

5.07: Effect of a Permit

Issuance of an individual permit or coverage under a general permit under 314 CMR 5.00 and 2.00 shall be deemed to allow, to the extent specified in the permit and 314 CMR 5.07, the permittee to discharge pollutants to ground waters of the Commonwealth and to construct, install, modify, operate and maintain an outlet for such discharge, together with any treatment works or best management practices required to meet effluent limitations or other requirements specified in the permit for such discharge. Issuance of an individual permit under 314 CMR 5.00 and 2.00 shall also be deemed to allow to the extent specified in the permit and 314 CMR 20.00, the permittee to construct, install, modify, operate and maintain a reclaimed water system and to use, sell, distribute, and offer for use, sale or distribution the reclaimed water produced by said system in accordance with the permit and 314 CMR 20.00. Issuance of an individual permit or coverage under a general permit under 314 CMR 5.00 and 2.00 does not authorize any injury to persons or property or invasion of other rights nor does it relieve the permittee of its obligation to comply with all applicable Federal, State, and local laws and regulations.

5.08: Continuation of an Expiring Permit

1) The conditions of an individual permit continue in force under M.G.L. c. 30A, § 13 beyond the expiration date of the permit if:

(a) The permittee has made timely application for renewal of a new permit pursuant to 314 CMR 5.09A(3) which is a complete application under 314 CMR 5.09(4); and

(b) The Department does not renew or issue a new permit with an effective date under 314 CMR 2.08 on or before the expiration date of the previous permit, does not deny the permit application and does not modify or revoke the previous permit.

(2) Individual Permits continued under 314 CMR 5.08 remain fully effective and enforceable.

(3) Coverage under a general permit continues beyond the expiration date as provided in 314 CMR 5.13.

5.09: Duty to Submit Hydrogeological Evaluation

(a) Except as otherwise provided in 314 CMR 5.09(b) or as otherwise determined by the Department, no person shall apply for an individual permit or file a notice of intent requesting coverage under a general permit without an authorization from the Department. A person may obtain such authorization by:

1. submitting to the Department for its review and approval a scope of work for a hydrogeological investigation to determine whether the proposed discharge site is a suitable location for the discharge;
2. placing a notice of the hydrogeological investigation in the Environmental Monitor and submitting a copy of said notice to the Department;
3. conducting a hydrogeological investigation in accordance with the scope of work as approved by the Department and the Department's Guidelines for such investigations;
4. submitting to the Department for its review and approval a Hydrogeological Report in accordance with the scope of work as approved by the Department and the Department's Guidelines; and
5. requesting authorization from the Department to apply for an individual permit or to file a notice of intent requesting coverage under a general permit.

The documents required by 314 CMR 5.09(a)(1)(2) and (4) shall be submitted to the Department on the appropriate Department approved form.

(b) The requirements of 314 CMR 5.09(a) do not apply to:

1. Persons applying for an individual permit or requesting coverage under a general permit for a "storm water discharge" as defined in 314 CMR 5.04(2);
2. Persons who have filed an application for an individual permit pursuant to 314 CMR 5.00 on or before *date* (effective date of the regulations); and
3. Persons who have obtained a permit pursuant to 314 CMR 5.00 on or before *date* (the effective date of the regulations).

509A: Application for a permit

(1) Duty to apply. Any person required to obtain a permit pursuant to 314 CMR 5.03 or 5.04 shall apply for an individual permit in accordance with 310 CMR 5.09A(5) or seek coverage under a general permit in accordance with 310 CMR 5.13 by completing and submitting the appropriate form(s). The Department may require the applicant to provide information and analyses as the Department deems necessary to determine whether the applicant and the proposed activity meet the requirements of 314 CMR 5.00 including, but not limited to, pollutant loading information, water quality analyses relevant to the discharge location and information regarding areas and resources potentially impacted by the discharge.

(2) Who must apply. The owner of the existing or proposed treatment works or activity resulting in a discharge

of pollutants or the owner of the proposed discharge location shall apply for a permit.

(3) Time to Apply: A person required to obtain an individual permit under 314 CMR 5.03, 314 CMR 5.04 and 314 CMR 5.09 who does not have a currently effective permit shall submit an application at least 60 days before the date on which the discharge is to commence unless permission for a later date has been granted by the Department in writing.

(4) Completeness. The Department shall not issue a permit before receiving a complete application as required under 314 CMR 2.03(2).

(5) A complete application for an individual permit for all discharges other than a "storm water discharge" as defined in 310 CMR 5.04(2), includes the following submissions along with the required Department approved forms and permit application fees:

(a) Engineering Report prepared in accordance with the Department's Guidelines for the Design Construction, Operation and Maintenance of Small Wastewater Treatment Facilities with Land Disposal, by a Massachusetts Registered Professional Engineer with a concentration in sanitary, civil or environmental engineering. Said report shall include information on any conditions that have changed since the date of the Hydrogeological Report submitted in accordance with 314 CMR 5.09.

(b) A certification from a Massachusetts Registered Professional Engineer with a concentration in sanitary, civil or environmental engineering that:

i. The Engineer has reviewed the Hydrogeological Report submitted in accordance with 314 CMR 5.09 and the Engineering Report submitted in accordance with 314 CMR 5.09A(5)(a) and has determined that the information presented in the Hydrogeological Report as amended by the Engineering Report accurately reflects conditions as of the date of the permit application; and
ii. The treatment works described in the Engineering Report will enable the discharge to operate in compliance with 314 CMR 5.00 including without limitation effluent limitations established in accordance with 314 CMR 5.10; and

(c) The signature of a person identified in 314 CMR 5.14.

(6) If the applicant is requesting the Department to include in an individual permit for the discharge of an effluent as the result of the treatment of sewage at a treatment works with special effluent limitations established in accordance with 314 CMR 5.10(9), the applicant shall submit sufficient information to enable the Department to make the required determinations.

(7) If the application is for a Privately Owned Wastewater Treatment Facility, the applicant shall submit the information specified in 314 CMR 5.15(1).

5.10: Permit Conditions for Individual and General Permits

(1) General Conditions. The conditions in 314 CMR 5.19 shall apply to every individual and general permit issued under 314 CMR 5.00, whether or not expressly incorporated into the permit.

(2) Special Conditions.

(a) In addition to conditions applicable to all permits (314 CMR 5.10(1) and 5.19), the Department shall establish special conditions, in general permits and as required on a case by case basis in individual permits, to provide for and assure compliance with all applicable requirements of the M.G.L. c. 21 §§ 26 through 53 and regulations adopted thereunder. An applicable requirement is a state statutory or regulatory requirement that takes effect prior to issuance of the permit. These requirements shall be identified in the fact sheet or statement of basis prepared under 314 CMR 2.05. These conditions shall establish effluent limitations, and applicable requirements (314 CMR 5.10(3) and (4)); the duration of the permit (314 CMR 5.10(5)); monitoring, recordkeeping and reporting requirements (314 CMR 5.10(6)); and other conditions (314 CMR 5.10(8)). In lieu of effluent limitations established in accordance with 314 CMR 5.10(2), 5.10(3) and 5.10(4), a permit for a "storm water discharge" as defined in 314 CMR 5.04(2) may establish conditions requiring the implementation of structural and nonstructural stormwater best management practices, erosion and sedimentation control measures, operation and maintenance measures and measures to eliminate and prevent illicit discharges to the stormwater management system in accordance with the Stormwater Management Standards set forth in 314 CMR 9.06(6) and the Massachusetts Stormwater Handbook.

(b) Effluent Limitations. Except as expressly provided in 314 CMR 5.10(3), 314 CMR 5.10(4) and 314 CMR 5.10(9), the Department shall establish effluent limitation in permits for all discharges other than a "storm water discharge" as defined in 314 CMR 5.04(2) based on the more stringent of the following:

1.Water quality based effluent limitations under 314 CMR 5.10(3); or

2. Technology based effluent limitations under 314 CMR 5.10(4).

(3) Water quality based effluent limitations. Except as otherwise provided in 314 CMR 5.10 (2)(a) and (b) and 314 CMR 5.10 (3)(c), and 314 CMR 5.10(9), all permits shall contain effluent limits which are adequate to assure that no pollutants shall be discharged in an amount or concentration that would impair the use of the ground water as a source of potable water. All permits shall also contain limits which are adequate to protect surface waters for their existing and designated uses and to assure the attainment and maintenance of the surface water quality standards in 314 CMR 4.00 and which are consistent with the Total Maximum Daily Loads established by the Department. To meet these requirements, the Department shall establish water quality based effluent limitations as follows: The Department shall consider natural background conditions, shall protect existing adjacent and down gradient uses, and shall not interfere with the maintenance and attainment of beneficial uses in adjacent and down gradient waters. The Department may provide a reasonable margin of safety to account for a lack of knowledge concerning the relationship between the pollutants being discharged and their potential impact on the quality of any surface waters or ground waters. Except as otherwise provided in 314 CMR 5.10(2)(a) and (b), 314 CMR 5.10(3)(c) and 314 CMR 5.10(9), the following water quality based effluent limitations shall apply to all discharges from a point source or outlet:

(a) Effluent limitations for all ground waters. Pathogenic Organisms shall not be present in amounts sufficient to render the ground water detrimental to public health or welfare or impair the use of the ground water as a source of potable water. Except as otherwise provided in 314 CMR 5.10(2)(a) and (b), 314 CMR 5.10(3) (a) and (c) and 314 CMR 5.10(9), the Department shall establish effluent limits that at a minimum require any discharge from a point source or outlet to the ground to meet the maximum contaminant limits set forth in the Drinking Water Regulations of Massachusetts, 310 CMR 22.00. The Department shall also establish effluent limits that provide that the discharge shall meet the following limits:

Parameter	Limit
Barium	Shall not exceed 1.0 mg/l
Chromium	Shall not exceed 0.05 mg/l
Selenium	Shall not exceed 0.01 mg/l
Silver	Shall not exceed 0.05 mg/l
Endrin	Shall not exceed 0.0002 mg/l
2,3,5, TP Silvex	Shall not exceed 0.01 mg/l
Chlorides	Shall not exceed 250 mg/l
Total Dissolved Solids	Shall not exceed 1000 mg/l
Oil and Grease	Shall not exceed 15 mg/l

(b) The Department may establish water quality based limitations for other pollutants as deemed necessary in the Department's best professional judgment to protect the ground waters of the Commonwealth for use as potable water and the surface waters of the Commonwealth for their existing and designated uses as set forth in 314 CMR 4.00 including without limitation effluent limits on contaminants which as of *date* (the effective date of the regulations) are not regulated by the Drinking Water Regulations of Massachusetts, 310 CMR 22.00. The Department will prohibit the discharge of any toxic pollutant for which the EPA or the Department has not yet developed a Health Advisory. The Department may establish a Health Advisory for additional toxic pollutants when sufficient data becomes available.

(c) Special Water Quality Based Effluent Limitations for Existing Discharges To Ground Water Previously Classified as Class III A permit for the discharge to a ground water classified as a Class III ground water as of *date* (one day prior to effective date of regulations), may vary from the requirements set forth in 314 CMR 5.10(3)(a) as follows:

(i) The concentrations of nitrate nitrogen shall not exceed 50 milligrams per liter;
(ii) The concentration of total nitrogen shall not exceed 50 milligrams per liter; and
(iii) There is no applicable standard for chlorides or total dissolved solids.

The Department shall require that any discharge to ground water classified as a Class III Ground Water as of *date* (one day prior to the effective date of the regulations) that was not authorized by a permit issued by the Department on or before *date* (one day prior to the effective date of the regulations) shall meet the water quality based effluent limitations set forth in 314 CMR 5.10(3)(a). Notwithstanding the foregoing, the Department may require that any discharge to ground water previously classified as a Class III Ground Water as of *date* (one day prior to the effective date of the regulations) meet more stringent effluent limits than those set forth herein, if it determines based on a Total Maximum Daily Load Report or otherwise, that additional effluent limits are necessary to ensure compliance with the Surface Water Quality Standards, 314 CMR 4.00.

(4) Technology based effluent limitations.

(a)(1) Technology based effluent limitations for Treatment Works that discharge a liquid effluent as the result of the treatment of sewage. Except as otherwise provided in 314 CMR 5.03(4)(a)(2) and 314 CMR 5.10(9), technology based limitations for discharges from privately owned wastewater treatment facilities that discharge a liquid effluent as the result of the treatment of sewage and POTWs shall be secondary treatment. Limitations defining secondary treatment may be expressed in terms of concentration as well as mass. For purposes of 314

CMR 5.10(4), secondary treatment shall be enhanced to include technology adequate to treat the discharge to meet an effluent limitation of 10 mg/l of nitrate nitrogen and total nitrogen, and disinfection to meet an effluent limit of not more than 200 fecal coliform organisms per 100 ml. Notwithstanding the foregoing, except as otherwise provided in 314 CMR 5.10, the Department may at its discretion waive the disinfection requirement, if it determines that this requirement is not necessary to protect the waters of the Commonwealth or the public health, safety or welfare.

(a)(2) Special Technology-Based Effluent Limitations for Existing Discharges to Ground Water Previously Classified as Class III. A permit for a discharge to ground water classified as Class III Ground Water as of *date* (one day prior to the effective date of the regulations) may provide that the technology based limit is primary treatment. Primary treatment is defined as that process or group of processes capable of removing from untreated wastewater a minimum of 25% of the five day biochemical oxygen demand, 55% of the suspended solids, and 85% of the floating and settleable solids. The Department shall require that any discharges to ground water classified as Class III Ground Water as of *date* (one day prior to effective date of regulations) that was not authorized by a permit issued by the Department on or before *date* (one day prior to effective date of regulations) receive secondary treatment prior to discharge. Notwithstanding the foregoing, the Department may require that a discharge to ground water previously classified as Class III Ground Water as of *date* (one day prior to effective date of regulations) receive at least enhanced secondary treatment in accordance with 314 CMR 5.10(4)(a)(2), if it determines based on a Total Maximum Daily Load or otherwise that treatment in addition to primary treatment is necessary to ensure compliance with the Surface Water Quality Standards, 314 CMR 4.00.

(b) Technology based effluent limitations for industrial dischargers. Technology based limitations for discharges of industrial wastewater containing non- conventional pollutants shall be the most stringent of the following:

1. Limitations and standards for the applicable industrial category promulgated by EPA to comply with the requirements of § 301 of the Federal Act.

2. Limitations developed on a case-by-case basis, which, in the Department's best professional judgment, define the appropriate level of control set forth in the Federal Act for the category of discharger or class of pollutants discharged. In defining the appropriate level of control hereunder, the Department will consider any draft or promulgated EPA effluent limitation guidelines, draft or proposed EPA development documents or guidance, any available state guidance, or any technology or process which has been demonstrated to be achievable in the experience of the Department for the class or category of discharger.

3. In the case of reissued permits, limitations which are at least as stringent as those of the previous permit, unless the effluent limitations imposed by the previously issued permit are more stringent than subsequently promulgated effluent guidelines and one or more of the following conditions applies:

a. The discharger has installed the treatment facilities required to meet the effluent limitations in the previous permit and has properly operated and maintained the facilities but has nevertheless been unable to achieve the previous effluent limitations. In this case, the limitations in the renewed or reissued permit may reflect the level of pollutant control actually achieved (but shall not be less stringent than required by the subsequently promulgated effluent limitation guidelines).

b. The circumstances on which the previous permit was based have materially and substantially changed since the time the permit was issued and would constitute cause for permit modification or revocation and reissuance under 314 CMR 5.12.

(4A) Additional Water Quality and Technology Based Effluent Limits for Discharges within the Zone II Interim Wellhead Protection Area, or an Area Outside the Service Area of a Public Water System.

(a) Except as otherwise provided in 314 CMR 5.10(9), discharges of a liquid effluent as the result of the treatment of sewage by a treatment works within the Zone II, Interim Wellhead Protection Area or an area that is outside the service area of a public water system shall, at a minimum, meet the following additional water quality based limitations:

1. Total Suspended Solids shall not exceed 10 milligrams per liter;
2. Turbidity shall not exceed 5 NTU; and
3 The effluent shall be filtered.

(b) Except as otherwise provided in 314 CMR 5.10(9), discharges of a liquid effluent as a result of the treatment of sewage by a treatment works located within (i) a Zone II, an Interim Wellhead Protection Area or an area outside the service area of a public water system, and (ii) the one year ground water travel time to a public drinking water source shall, at a minimum, meet the following additional water quality based limitations:

1. Total Suspended Solids shall not exceed 5 milligrams per liter;
2. Turbidity shall not exceed 2 NTU;
3. Biological Oxygen Demand (BOD) shall not exceed 10 milligrams per liter; and
4. Total Organic Carbon (TOC) shall not exceed 3 milligrams per liter following treatment in the soil. The permittee may demonstrate compliance with this effluent limitation by taking samples in accordance with the monitoring plan approved by the Department from selected monitoring wells located along the property boundary line.

(c) Except as otherwise provided in 314 CMR 5.10(9), discharges of a liquid effluent as the result of the treatment of sewage by a treatment works located within: (i) a Zone II, Interim Wellhead Protection Area, or an area that is outside the service area of a public water system and (ii) the one year ground water travel time to a public drinking water source shall, at a minimum, meet the following additional technology based limitations:

1. The effluent shall at all times be oxidized, filtered, disinfected, and coagulated so that the median concentration of fecal coliform in the disinfected effluent does not exceed a limit of no detectable colonies per 100 milliliters over a continuous 7 day sampling period, and no sample shall exceed a limit of 14 colonies per 100 milliliters.

2. The permittee shall demonstrate that the disinfection process can inactivate and/or remove 5 logs of F-specific bacteriophage of MS 2 or poliovirus from the water. A virus at least as resistant as poliovirus may be used for the purpose of demonstration. This requirement may be met by a combination of removal and inactivation. Compliance may also be based on the treatment process, turbidity and type of performance of the disinfection. The disinfection requirement shall not be waived.

3. The Department may waive the coagulation requirement, if the turbidity requirement can be satisfied after filtration without coagulation.

(4B) Effluent Limits for Discharges within 100 feet of an Irrigation Well. If a permit authorizes the discharge of reclaimed water within 100 feet of an irrigation well, the permit shall establish effluent limits that are at least as stringent as effluent limits established in accordance with 314 CMR 20.17(8).

(5) Duration of permits. Permits shall be effective for a fixed term not to exceed five years unless continued as provided in 314 CMR 5.08. The Department may issue any permit for a period less than five years.

(6) Monitoring, recordkeeping and reporting requirements.

(a) Each permit for a discharge other than a "storm water discharge" as defined in 314 CMR 5.04(2) shall contain monitoring requirements to assure compliance with permit limitations and conditions, including the installation of monitoring wells. A permit for a "storm water discharge" as defined in 314 CMR 5.04(2) may include monitoring requirements to assess the effectiveness of the required structural and nonstructural stormwater best management practices, erosion and sedimentation control measures, operation and maintenance measures, and measures to eliminate and prevent illicit discharges to the stormwater management system at protecting ground waters as an actual or potential potable water source and surface waters for their existing and designated uses and to assure the attainment and maintenance of the surface water quality standards in accordance with 314 CMR 4.00. The Department shall approve the number, location, dimensions, method of construction, sampling parameters, and method of sampling of monitoring wells. The type, intervals, and frequency of monitoring shall be sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring. Monitoring requirements may include the mass (or other measurement specified in the permit) for each pollutant limited in the permit, the volume of effluent discharged from each facility, and other measurements as appropriate (including biological monitoring methods when appropriate). Monitoring shall be conducted in accordance with the provisions of 314 CMR 5.19(10). Permittees shall maintain records of all monitoring activities in accordance with 314 CMR 5.19(11).

(b) Each permit for a discharge other than a "storm water discharge" as defined in 314 CMR 5.04(2) shall contain requirements to report monitoring results with a frequency dependent on the nature and effect of the discharge, but in no case less than once a year. Pollutants for which the permittee must report violations of maximum daily discharge limitations under 314 CMR 5.19(20)(e) shall be listed in the permit. If monitoring is required, a permit for a "storm water discharge" shall also contain requirements to report monitoring results with a frequency dependent on the nature and effect of the discharge, but in no case less than once a year.

(c) For all permits that specify effluent limits and/or require monitoring, the determination of compliance of discharges with the effluent limitations and other relevant conditions in the permit will be made through tests or analytical determination of ground water and effluent samples collected, transported and stored in such manner as outlined in the most recent edition of *Standard Methods for the Examination of Water and Wastewater*, American Public Health Association et al and the latest EPA analytical procedures. The Department shall approve the location at which ground water samples are taken and the influent and effluent sampling locations. The location at which effluent samples are collected shall be at a point where the effluent emerges from a treatment works, disposal system, outlet or point source and prior to being discharged to the ground unless otherwise approved by the Department. In selecting or approving monitoring well locations and construction, the Department shall consider all relevant facts including, but not limited to:

1 The mobility of pollutants in the unsaturated zone and the pollutant attenuation mechanisms in this zone;
2. Attenuation mechanisms, which may remove potential pollutants in passage through the soil;
3. The relative thickness of the unsaturated zone;
4. Attenuation of pollutant concentrations with distance, which may occur in the saturated

zone as a result of attenuation process occurring below the water table; and

3. Information from the approved Hydrogeological Report, including information on ground water levels, ground water flows, and soils information.

(d) Tests or Analytical Determination Tests and analytical determinations to determine compliance with standards, limitations and criteria shall be made in accordance with methods approved by the Department for that purpose.

(7) Use of Effluent as Reclaimed Water in Accordance with 314 CMR 20.00

A permit issued pursuant to 314 CMR 5.00 may authorize the use, sale or distribution of some or all of the effluent from the permitted facility as reclaimed water in accordance with 314 CMR 20.00 provided that the facility is a reclaimed water system as defined in 314 CMR 5.02. Any such permit shall contain the conditions governing the operation and maintenance of a reclaimed water system and the treatment, use, sale and distribution of reclaimed water set forth in 314 CMR 20.00.

(7A) Conditions for Privately Owned Wastewater Treatment Facilities

(1) A permit for a Privately Owned Wastewater Treatment Facility shall contain the following conditions:

(a) The permittee shall establish and maintain a financial assurance mechanism that provides for the continued availability of an immediate repair and replacement account to be used by the permittee solely for the immediate repair and replacement of any failing components of the wastewater treatment facility. The permittee shall deposit at least 15% of the estimated construction cost of the facility into an interest bearing escrow account in accordance with the financial assurance mechanism and 314 CMR 5.15(3)(a). The permittee shall submit an annual financial account prepared in accordance with generally accepted accounting principles to the Department on January 31st of each year. This report shall at a minimum identify the initial and current balances in the immediate repair and replacement account and confirm the continued availability of the funds in the account for the immediate repair and replacement of any failing components of the wastewater treatment facility.

(b) The permittee shall meet the obligation to establish all required financial assurance mechanisms by using Department approved forms and shall submit said Department approved forms to the Department for its review and approval.

(c) The permittee shall maintain the current form documents evidencing all required financial assurance mechanisms approved by the Department. The permittee shall perform all its obligations under the required financial assurance mechanisms as approved by the Department.

(d) For purpose of the financial assurance mechanism requirement, the estimated construction cost of the wastewater treatment facility shall include the cost of constructing the wastewater treatment plant, collection system, associated mechanical equipment, but not including the land, ground and disposal area.

(2) If a Privately Owned Wastewater Treatment facility treats at least some wastewater from residential uses as defined in 314 CMR 5.02, the permit shall contain the following additional condition:

The permittee shall establish and maintain a financial assurance mechanism in accordance with 314 CMR 5.15 that provides for the accumulation in a capital reserve account of sufficient funds to make any necessary modifications to the wastewater treatment facility and other related equipment or changes within twenty years from the date the facility commenced operation or

such other period determined to be appropriate by the Department based on the age and condition of the facility. The financial assurance mechanism shall provide for the accumulation in the capital reserve account of an amount equal to at least 25% of the estimated construction cost of the facility. On or before January 31st of each year, the permittee shall submit to the Department an annual financial report identifying the initial and current balances in the capital reserve account and confirming the continuing availability of the funds in said account for the purposes specified in the permit and 314 CMR 5.15. Said report shall be prepared in accordance with generally accepted accounting principles.

(8) Other Conditions. In addition to the conditions established under 314 CMR 5.10(1) through 314 CMR 5.10 (7A), a permit may include special conditions as follows:

(a) Requirements for POTWs to comply with pretreatment provisions under 314 CMR 12.00; including:

1. The identification, in terms of character and volume of pollutants, of any significant indirect discharge into the POTW subject to the prohibitions and standards of 314 CMR 12.08;

2. The establishment of a POTW pretreatment program in accordance with 314 CMR 12.09, including any necessary schedule of compliance for adoption of the program;

3. The incorporation of an approved POTW pretreatment program in the permit; and

4. The submittal by a POTW of the reports required by 314 CMR 12.09(3).

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(b) Requirements applicable to the management of hazardous wastes for treatment works subject to the provisions of 314 CMR 8.00.

(c) Requirements for treatment works to control the amount of infiltration and inflow and to submit a report to the Department describing the steps the permittee has taken and will take in order to remain in compliance with the limitations in its permit including limits on the amount of flow to be discharged under the permit.

(d) Requirements to control or abate the discharge of pollutants through the application of best management practices when:

1. Authorized under the Federal Act for the control of toxic pollutants and hazardous substances from ancillary and industrial activities;

2. Numerical effluent limitations are infeasible; or

3.The practices are reasonably necessary to achieve effluent limitations and standards or to carryout the purposes and intent of the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26 through 53.

(e) Requirements for treatment works to monitor, record, and report the quality of water at up gradient and down gradient monitoring wells to determine that the discharge does not impair the use of the ground water as an actual or potential source of potable water.

(f) Requirements for treatment works to prepare and submit monthly operating reports under 314 CMR 12.07.

(g) Requirements imposed in grants or loans made by EPA or the Department to POTWs under the Federal Act or M.G.L. c. 29C which are reasonably necessary for the achievement of effluent limitations.

(h) Requirements governing the disposal of sludge from treatment works.

(i) Requirements for the periodic submission of reports regarding the condition and capacity of a treatment works, including any portion of a sewer system.

(j) Requirements for the operation, maintenance and staffing for treatment works including:

1. Submission of an operation and maintenance plan and staffing plan to the Department for its review and approval at least ninety days before the facility commences operation or at least forty-five days before the permit takes effect whichever last occurs. The Operation and Maintenance Plan shall document how the permittee intends to operate and maintain and staff the facility in accordance with all applicable requirements including the permit, 314 CMR 5.00, 257 CMR 2.00, and 314 CMR 12.00. The Operation and Maintenance Plan shall include a preventative maintenance program to ensure that all equipment is kept in a reliable condition. The Operation and Maintenance Plan shall include a plan to staff the facility in accordance with all applicable regulations including without limitation 257 CMR 2.00. The Operation and Maintenance Plan shall also include an emergency contingency plan that establishes standard operating procedures that must be followed when the reclaimed water does not meet the applicable effluent limits.

2. Operation of the facility in accordance with the operations and maintenance plan and staffing plan approved by the Department, 314 CMR 5.00 and 314 CMR 12.00.

3. Submission of a revised operation and maintenance plan and staffing plan whenever there are proposed modifications to the facility, the standard operating procedures for the facility or the staff of the facility.

4. Except as otherwise determined by the Department, implementation of proposed changes only after the revised operations and maintenance plan and staffing plan are approved by the Department.

5. If the permittee intends to enter into a contract with a third party (the "contract operator") for the operation and maintenance of the facility, at least forty-five days prior to the date the facility commences operation, the permittee shall submit a draft unsigned contract to the Department for its review and approval. The contract shall provide that the contract operator shall operate and maintain the facility in accordance with the approved Operation and Maintenance Plan and Staffing Plan, 314 CMR 20.00, 314 CMR 12.00, and 257 CMR 2.00. The permittee shall not execute the contract and authorize the contract operator to commence operation of the facility unless and until the Department has approved the contract.

(k) Requirements for the periodic submission of the reports regarding the implementation and effectiveness of structural and nonstructural stormwater best management practices, erosion and sedimentation control measures, operation and maintenance measures, and measures to eliminate and prevent illicit discharges to the stormwater management system required in a permit for a "storm water discharge" as defined in 314 CMR 5.04(2).

(9) Special Effluent Limitations.

(a) An individual permit for a discharge of an effluent as the result of the treatment of sewage by a treatment works may specify effluent limitations less stringent than the water quality based effluent limitations listed in 314 CMR5.10 (3)(b), (c) and (d) and the technology based effluent limitations specified in 314 CMR 5.10(4)(a), if, after notice and an opportunity for a public hearing, the Department determines that all the following conditions are met:

(1) The ground water is not an underground source of drinking water because

(a) it currently does not serve as a source of drinking water and

(b) cannot now and will not in the future serve as a source of public drinking water because
(i) it is used to produce mineral, hydrocarbon or geothermal energy,
(ii) is so contaminated or located at a depth or location that it would be economically or technologically infeasible, or
(iii) is not fit for human consumption.

(2) The proposed discharge will not present an actual or potential public health hazard.

(3) The proposed discharge will not cause the water quality of any public or private water supply to violate the standards set forth in the Drinking Water Regulations of Massachusetts, 310 CMR 22.00.

(4) The proposed discharge will not violate or contribute to a violation of any state or federal applicable surface water quality standard in adjacent surface waters of the Commonwealth.

(b) In making a determination pursuant to 314 CMR 5.10(9)(a), the Department shall consider the following factors:

(1) the volume and physical chemical and biological characteristics of the waste in the proposed discharge;

(2) the nature and extent of the area that may be affected by the potential movement of the contaminant plume that may result from the proposed discharge (the potentially impacted area);

(3) the hydrological characteristics of the potentially impacted area and its connection to adjacent ground waters and surface water;

(4) the existing quantity and quality of ground water in the impacted area; and

(5) the proximity of the proposed discharge to surface waters and to ground water withdrawals including public water supply wells and private drinking water wells.

(c) Except as otherwise provided herein, an individual permit for the discharge of a liquid effluent as a result of the treatment of sewage at a treatment works may specify that the discharge may meet the water quality based limitations and the technology based limitations for nitrate nitrogen and total nitrogen of 10 milligrams per liter at selected monitoring wells located along the down gradient property boundary, if, after notice and an opportunity for a public hearing, the Department determines that the discharger has completed a nitrogen analysis that demonstrates that:

(1) The water quality based limitations and the technology based limitations for nitrate nitrogen

and total nitrogen will be met at all points at which the discharge will reach any private or public water supply well; and

(2) The discharge is not a new or increased discharge that is proposed after *date* (effective date of regulatory revision) that is located in a Zone II or Interim Wellhead Protection Area.

A permit issued pursuant to 314 CMR 5.10(9)(c) may require the implementation of additional measures to limit nutrient discharges from the site including without limitation land use controls, best management practices and household hazardous waste collection, if the Department determines that such measures are necessary to protect the public health or the environment.

If the discharge is located in a nutrient sensitive environmental area, within the Zone II or Interim Wellhead Protection Area of a public water system or within an area that is outside the service area of a public water system, a permit issued pursuant to 314 CMR 5.10(9)(c) shall provide that the effluent limit for nitrate nitrogen and total nitrogen in selected monitoring wells at the down gradient property line shall be no more than 5 milligrams per liter.

(d) For an individual permit for the discharge of an effluent as the result of the treatment of sewage by a seasonal treatment works the Department may deem that the discharge complies with the water quality based effluent limitations in 314 CMR 5.10(3) and the technology based limitations in 310 CMR 5.10(4), if the total pounds of biochemical oxygen demand, total suspended solids, nitrate nitrogen and total nitrogen discharged to the ground from the treatment works during any calendar year does not exceed one half of the total pounds of pollutants that would have been discharged during the calendar year, if the discharge occurred throughout the year at the same average rate as the proposed discharge in compliance with the more stringent of the water quality based limitation and the technology based limitation, if after public notice and an opportunity for a hearing, the Department determines that :

(1) The facility will be used and a discharge will be generated during no more than a total of six calendar months during any calendar year;

(2) The facility is limited to the treatment of sewage only; and

(3) The discharge is not a new discharge or increase in flow proposed after *date* (effective date of regulatory revision) that is located in a Zone II, Interim Wellhead Protection Area, or area outside the service area of a public water system, or a nutrient sensitive environmental area.

5.11: Reserved

5.12: Modification, Suspension, Revocation, Renewal, and Transfer of Permits

(1) As provided in M.G.L. c. 21, § 43(10), the Department may propose and determine to modify, suspend or revoke any outstanding permit, in whole or in part, for cause including, but not limited to, violation of any permit term, obtaining a permit by misrepresentation or failure to disclose fully all relevant facts or any change in or discovery of conditions that calls for reduction or discontinuance of the authorized discharge or activity. The Department may also modify a permit at the request of the permittee upon a showing, satisfactory to the Department that the requested modification is appropriate in view of circumstances for which the permittee is not at fault. The Department's authority to require any person covered under a general permit to obtain an individual permit or to be covered under an alternative general permit is set forth in 314 CMR 5.13.

(2) Except as otherwise provided, the modification of an individual permit shall be processed in accordance with the provisions of 314 CMR 2.00.

(3) Minor Modifications of Permits. Upon the consent of the permittee, the Department may make the following minor modifications without following the procedures of 314 CMR 2.00:

(a) to correct typographical errors;

(b) to require more frequent monitoring or reporting by the permittee;

(c) to replace damaged monitoring well(s) at an adjacent location;

(d) to delete an outfall when the discharge from that outfall is terminated and does not result in the discharge of pollutants from other outfalls except in accordance with permit limits; and

(e) to transfer the permit to a new permittee if the following conditions are satisfied:

1. The Department receives written notice of the transfer from the current permittee of the transfer at least 30 days in advance of the proposed transfer date;

2. The notice includes a written agreement between the existing and new permittee, which includes a specific date for transfer of the permit and the proposed new transferee's assumption of responsibility for compliance with all the terms and conditions of the permit. If the proposed new transferee will operate a Privately Owned Wastewater Treatment Facility, the notice shall include sufficient documentation to demonstrate that the proposed new transferee meets all the requirements of 314 CMR 5.15 and the written agreement shall provide for the allocation of liability and financial responsibility for all required financial assurance mechanisms; and

3. The Department approves the transfer in writing. The transfer shall take effect on the date the transfer is approved by the Department. If the proposed new transferee will operate a Privately Owned Wastewater Treatment Facility, the Department shall not approve the transfer, unless and until the permittee and the proposed new permittee demonstrate that the proposed new transferee is in compliance with all applicable requirements of 314 CMR 5.15, including without limitation, all applicable financial assurance mechanism requirements, and that all required funds have been placed in the immediate repair and replacement account and, if applicable, the capital reserve account.

(4) Time to Apply for Renewal of an Individual Permit Any person with a currently effective individual permit shall submit an application to renew the permit in accordance with 314 CMR 5.12(5) or (7) at least 180 days before the expiration of the existing permit unless permission for a later date has been granted by the Department in writing.

(5) Administrative Renewal of Permits The Department may administratively renew an individual discharge permit for a discharge by extending the existing permit for an additional five years provided that all the following conditions are met:

(a) The permittee submits a timely application for administrative renewal in accordance with 314 CMR 5.12(4);

(b) The permittee submits to the Department proof that the permittee has provided public notice in

accordance with 314 CMR 2.06 that the permittee meets the conditions for administrative renewal set forth in 314 CMR 5.12(4) and that the Department has tentatively determined to administratively renew the existing permit for a period of five years;

(c) The permittee does not seek to modify the treatment works or best management practices authorized by the existing permit;

(d) The permittee has operated all treatment works and best management practices authorized by the permit in accordance with the approved operation and maintenance plan and has submitted documentation evidencing implementation of the operation and maintenance plan;

(e) A Massachusetts Registered Professional Engineer with a concentration in civil, sanitary or environmental engineering has inspected the treatment works and/or best management practices required by the permit and based on that inspection, has certified to the Department in writing that there are no deficiencies in said treatment works and/or best management practices that prevent the discharge from meeting all the terms and conditions of said permit including without limitation the effluent limitations set forth therein;

(f) The Department has determined that more stringent effluent limits and/ or requirements in addition to those set forth in the existing permit are not necessary to protect the ground water as an actual or potential potable water source, to prevent the discharge from causing or contributing to a violation of the surface water quality standards, or to bring the permittee into compliance with the permit, 314 CMR 5.00, and/or 314 CMR 12.00;

(g) If the facility is a privately owned wastewater treatment facility, the permittee is in compliance with all applicable financial assurance mechanism requirements in accordance with 314 CMR 5.15 and 314 CMR 5.10(7A);

(h) The application is signed by a person identified in 314 CMR 5.14 and includes the certification set forth in 314 CMR 5.14;

(i) The application is sent to the Department by certified mail return receipt requested; and

(j) The Department does not notify the permittee in writing within 90 days of receipt of the permittee's application that the permittee has not met the conditions for administrative renewal set forth herein.

(6) Applications for Renewals of Individual Permits That Are Not Eligible for Administrative Renewal As provided in 314 CMR 5.12(5), a permittee that has filed an application for administrative renewal of an individual permit and has received notice that the permittee has not met the conditions for administrative renewal shall, on or before the deadline established by the Department in said notice, submit a complete application for renewal in accordance with 314 CMR 5.12(7), 314 CMR 5.12(8), and 314 CMR 5.12(9), except as otherwise directed by the Department in said notice.

(7) A complete application for the renewal of a permit for a discharge other than a "storm water discharge" includes the following information:

(a) An Engineering report prepared by a Massachusetts Registered Professional Engineer with a concentration in sanitary, civil or environmental engineering that:

1. identifies any changes in the conditions presented in the Hydrogeological Report submitted prior to permit issuance that would affect the terms and conditions of the permit; and
2. reports on the Engineer's inspection of the treatment facility and identifies any deficiencies in the treatment facility, collection system, mechanical equipment, disposal area, operations and maintenance plan, and staffing plan that may prevent the facility from meeting all the terms and conditions of the permit.

(b) As-built plans for the treatment works prepared by a Massachusetts Registered Professional Engineer with a concentration in sanitary, civil or environmental engineering;

(c) A certification by the Engineer that the information in the as-built plans and the Engineering Report accurately reflects conditions as of the date of the permit application;

(d) A Monitoring Well Plan in accordance with the Department's Standard Reference for Monitoring Wells;
(e) Any other information requested by the Department; and
(f) The signature of a person identified in 314 CMR 5.14 along with the certification set forth in 314 CMR 5.14.

(8) If the permittee seeks to modify the treatment works authorized in a permit for a discharge other than a "storm water discharge", a complete application for permit renewal shall also include an addendum to the Engineering Report describing the proposed modification along with a certification from the Massachusetts Registered Professional Engineer that the treatment works with the proposed modification is designed to operate in compliance with all the terms and conditions of the permit including without limitation the effluent limitations set forth therein.

(9) If the permittee is not eligible for administrative renewal of the existing permit because of deficiencies in the design, construction, operation, or maintenance of the treatment works that may prevent the discharge from complying with all the terms and conditions of the permit and /or if the Engineering Report or the Department identifies such deficiencies, the application for permit renewal shall include a corrective action plan and schedule. The corrective action plan and schedule shall detail all changes needed to address, correct or prevent any violations during the next five years and include an implementation schedule. Changes set forth in the corrective action plan may include without limitation modifications to the treatment works authorized in the permit, the approved operation and maintenance plan, and/or staffing plan.

5.13: General Permits

(1) Authority to Issue General Permits. The Department may issue general permits that authorize one or more types of discharges along with the construction, operation, and maintenance of associated treatment works by multiple dischargers, who have properly applied for and obtained coverage under the appropriate general permit. The Department may issue general permits to one or more categories or subcategories of dischargers whose discharges warrant similar control measures, because the Department has determined that they:

(a) involve the same or similar types of operations;

(b) discharge the same types of wastes;

(c) require the same effluent limitations or operating conditions;

(d) require the same or similar monitoring requirements; and

(e) are more appropriately controlled under a general permit than under individual permits.

Based on the factors set forth above, the Department may issue general permits for the construction, installation, modification, operation, and maintenance of certain privately owned wastewater treatment facilities and POTWs that are designed to receive and receive less than 50,000 gallons per day. The Department may also issue general permits for additional discharges including without limitation the following: (a) reject water from reverse osmosis facilities; (b) boiler blowdown with chemical additives approved by the Department; (c) carwashes; (d) laundromats; (e) wastewater from water purification

plants and water treatment plant lagoons; (f) point source agricultural discharges; (g) open loop geothermal well system for returning the water used for heating or cooling energy; and (h) certain "storm water discharges" as defined in 314 CMR 5.04(2).

(2) The Department may limit the scope of a general permit to discharges within a particular geographic area. Likewise, the Department may exclude discharges in a specified geographic area from coverage under a general permit.

(3) The Department may issue, modify or revoke a general permit in accordance with applicable provisions of 314 CMR 2.00 and 5.00. The Department may modify a general permit by issuing an alternative general permit.

(4) Coverage under a General Permit: Discharges already covered by an individual permit who seek to be covered by a general permit in lieu of an individual permit and proposed dischargers who seek to be covered by a general permit shall submit to the Department a notice of intent to be covered by the general permit in accordance with the requirement of the appropriate general permit, 314 CMR 2.00 and 314 CMR 5.00. A discharger who fails to submit a notice of intent in accordance with the terms of the general permit, 314 CMR 2.00 and 314 CMR 5.00 is not authorized to discharge under the general permit. In general, the filing of a complete and timely notice of intent fulfills the requirements for permit applications for purposes of 314 CMR 5.09.

(5) The Department will specify the contents of the notice of intent in the general permit and require the submission of information deemed necessary by the Department for its adequate implementation and compliance oversight of the general permit including, at a minimum, the legal name and address of the owner or operator, the facility name and address, type of facility or discharge, and the location of the discharge.

(6) The Department will specify in the general permit the deadlines for submitting notices of intent to be covered and the date(s) when a discharger is authorized to discharge under the general permit.

(7) The Department will specify in the general permit whether a discharger that has submitted a complete and timely notice of intent that is eligible for coverage under the general permit is authorized to discharge in accordance with the general permit either upon the receipt of the notice of intent by the Department after a waiting period specified in the general permit, on a date specified in the general permit, or upon receipt of notification by the Department.

(8) The Department may require any person seeking coverage under a general permit authorized to discharge under a general permit to apply for and obtain an individual permit or an alternative general permit. Circumstances in which the Department may require an individual permit or an alternative general permit include but are not limited to the following:

(a) The discharger is not in compliance with the terms and conditions of the general permit and/or has not met the eligibility requirements for coverage under the general permit set forth in the general permit, and/or 314 CMR 5.00.
(b) A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the discharges covered by the general permit.
(c) More specific effluent limits are established for discharges covered by the general permit.
(d) The Department determines that the discharger is not appropriately or adequately controlled under the general permit or that more stringent limits than those set forth in the general permit are necessary to protect the public health, safety or the environment or to achieve or maintain

compliance with the Massachusetts Surface Water Quality Standards or to protect the ground water as an actual or potential source of potable water.

(e) The discharger covered by the general permit is a significant contributor of pollutants to waters of the Commonwealth based on the location and/or quantity of the discharge or type of pollutants discharged.

(f) The entity seeking coverage under the general permit has failed to provide sufficient information for the Department to determine that coverage under the general permit will adequately protect the public health and the environment.

(g) The Department determines that the treatment works authorized to discharge under the general permit:

1. No longer involves the same or substantially similar types of operations as the permittees granted coverage under the general permit;
2. No longer discharges the same types of wastes as the permittees granted coverage under the general permit;
3. No longer requires the same effluent limitations or operating conditions as the permittees granted coverage under the general permit;
4. No longer requires the same or similar monitoring as the permittees granted coverage under the general permit; or
5. Is more appropriately controlled under an individual permit.

(9) In lieu of requiring a discharger covered or seeking coverage, under a general permit to obtain an individual permit, the Department may direct such discharger to undertake additional control measures, best management practices or other actions to ensure compliance with the general permit, the surface water quality standards, to protect the use of the ground water as an actual or potential source of potable water, or to protect the public health, safety, or the environment. The Department may exercise its authority to require the discharger to take the above actions by requiring the discharger to request coverage under an alternative general permit, or by taking an enforcement action against the discharger or by other means.

(10) Where the Department requires a discharger covered or seeking coverage under a general permit to apply for an individual permit or request coverage under an alternative general permit, the Department shall notify the permittee in writing that an individual permit or alternative general permit application is required as applicable. The Department's notification will include a brief statement of the reasons for the Department's action, the applicable form, a statement setting a deadline for the permittee to file the application for an individual permit or submit the notice of intent requesting coverage under the alternative general permit, and a statement that on the effective date of issuance or denial of the individual permit or alternative general permit as it applies to the particular permittee, coverage under the general permit shall automatically cease. The Department may grant additional time to submit the application or notice of intent upon request of the applicant. If the permittee fails to submit an individual permit application or a notice of intent requesting coverage under an alternative general permit within the deadline set by the Department in its notification, the effectiveness of the general permit as applied to the discharger is automatically terminated at the end of the day specified by the Department for submittal of the application or notice of intent.

(11) At least sixty (60) days prior to the expiration of a general permit, a permittee covered by a general permit shall file a notice of intent requesting continued coverage under the general permit or file an application for an individual permit.

(12) Continuation of an Expired General Permit. In the event that the Department does not reissue a

general permit prior to its expiration date, the general permit will be administratively continued and remain in full force and effect as to any particular permittee as follows. The Department may grant coverage under the general permit to any person who submitted a notice of intent requesting coverage under the general permit prior to the expiration date of the permit. The Department may also grant coverage under a general permit to a person who submitted a notice of intent after the expiration of the permit provided said person meets all other terms and conditions of the permit. Any permittee who was granted coverage prior to the expiration date or as provided herein will automatically remain covered by the continued permit until the earlier of:

(a) Reissuance of the general permit at which time the permittee shall comply with the conditions of the new permit to maintain its authorization to discharge;

(b) The permittee's submittal of a written notice of termination of general permit coverage to the Department;

(c) The Department's issuance of an individual permit or an alternative general permit for the permittee's discharge; or

(d) A formal permit decision by the Department not to reissue the general permit, at which time, the permittee shall seek coverage under an alternative general permit or an individual permit.

(13) Any person who has been granted coverage under a general permit who thereafter seeks to use, sell, distribute or offer for use, sale, or distribution some or all of the effluent as the result of the treatment of sewage by a permitted facility as reclaimed water in accordance with 314 CMR 20.00 shall apply for an individual permit at least 150 days prior to the date that the use, sale, distribution or offering for sale, use or distribution of the effluent as reclaimed water is proposed to commence. The Department will not authorize the use, sale or distribution of the effluent from a treatment works as reclaimed water under a general permit.

5.14: Signatories to Permit Applications, Notices of Intent and Reports

(1) Applications. All permit applications for an individual permit and all notices of intent requesting coverage under a general permit including without limitation applications for privately owned wastewater treatment facilities submitted in accordance with 314 CMR 5.15 shall be signed as follows:

(a) For a corporation or limited liability corporation: by a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function and duly authorized by the Board of Directors, or any other person who performs similar policy or decision-making functions for the corporation or to whom authority to sign documents has been assigned or delegated in accordance with corporate procedures;

(b) For a partnership or limited partnership: by a general partner;

(c) For a sole proprietorship: by the proprietor;

(d) For a municipality, local government unit, or political subdivision of the State or Federal government: by a principal executive officer, ranking elected official, or other person with legal authority to sign such documents.

(2) Reports. All reports or other information required by permits or this regulation and other information requested by the Department shall be signed by a person described in 314 CMR 5.14(1), or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(a) The authorization is made in writing by a person described in 314 CMR 5.14(1);

(b) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, superintendent, or position of equivalent responsibility; and

(c) The written authorization is submitted to the Department.

(3) Certification. Any person signing a document under 314 CMR 5.14(1) or (2) shall make the following certification:

> "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification set forth above shall be dated and signed by an authorized person as provided in 314 CMR 5.14(1) or (2).

5.15 Requirements for Privately Owned Wastewater Treatment Facilities

(1) A person that owns, operates or proposes to own or operate a Privately Owned Wastewater Treatment Facility is eligible for an individual or general permit under 314 CMR 5.00 to construct, install, modify, operate and maintain a Privately Owned Wastewater Treatment Facility provided that the applicant submits with the permit application for an individual permit or notice of intent requesting coverage under a general permit sufficient information to demonstrate to the Department's satisfaction that:

(a) A single entity comprised of all stakeholders will be the permittee responsible for the operation of the facility, including reporting, monitoring, maintenance, repair and replacement of the Privately Owned Wastewater Treatment Facility. For purpose of this requirement, the term stakeholders shall include the owners of any properties within the Privately Owned Wastewater Treatment Facility service area that have or propose to have their wastewater treated by the Privately Owned Wastewater Treatment Facility. If the Privately Owned Wastewater Treatment Facility treats sewage so that it may be used as reclaimed water in accordance with 314 CMR 20.00, the term stakeholder may also include any persons who propose to use, sell, distribute, or offer for use, sale or distribution the effluent from the treatment works as reclaimed water in accordance with 314 CMR 20.00.

(b) The entity will not change its organizational arrangements, not sell, assign, or transfer the wastewater treatment facility without the prior written approval of the Department.

(c) The entity owns the land on which the Privately Owned Wastewater Treatment Facility is located and owns land or has easements that provide access to said land, the wastewater collection system, and the land ten feet on each side of the collection system.

(d) All stakeholders share the financial and operational responsibilities for the Privately Owned Wastewater Treatment Facility required by 314 CMR 5.00, including without limitation, the obligation to establish and maintain a financial assurance mechanism that provides for an immediate repair and replacement account, and if the Privately Owned Wastewater Treatment Facility treats at least some wastewater from residential uses, a financial assurance mechanism that provides for a capital reserve account.

(e) The entity responsible for the operation, maintenance, repair and replacement of the Privately Owned Wastewater Treatment Facility has the authority to institute a user charge system sufficient to generate adequate revenue and to enforce such assessments against users in a manner equivalent to a municipal fee, tax or betterment assessment.

. (2) A permittee responsible for the operation of a Privately Owned Wastewater Treatment Facility shall establish and maintain financial assurance mechanisms to assure the Department that the permittee is capable of operating the facility in accordance with 314 CMR 5.00 and the permit. The permittee shall meet this obligation by completing the appropriate Department approved forms to establish the financial assurance mechanisms and shall file with the Department and maintain the current approved form documents constituting or evidencing compliance with this obligation. The Department shall not authorize the permittee to operate the Privately Owned Wastewater Treatment Facility, and the permittee shall not operate the Privately Owned Wastewater Treatment Facility, unless and until the Department has approved all required financial assurance mechanisms, the required financial assurance mechanisms are in full force in effect, and the permittee has made all financial contributions required by the financial assurance mechanisms. The permittee shall perform all its obligations under the required financial assurance mechanisms as approved by the Department.

(3) A permittee responsible for the operation of a Privately Owned Wastewater Treatment Facility shall establish and maintain a financial assurance mechanism in the form of an escrow agreement established by the Department for such purpose that provides for an immediate repair and replacement account in accordance with 314 CMR 5.15(3)(a). If the Privately Owned Wastewater Treatment Facility treats any wastewater from residential uses, the permittee shall establish and maintain another financial assurance mechanism in the form of a trust agreement established by the Department for such purpose that provides for a capital reserve account in accordance with 314 CMR 5.15(3)(b).

(a) Immediate Repair and Replacement Account: The immediate repair and replacement account shall contain adequate funds to correct an unanticipated problem at the Privately Owned Wastewater Treatment Facility immediately, so that any disruption of operation is minimized and a violation of the terms and conditions contained in the permit does not occur. At least 30 days prior to commencing operation of a new Privately Owned Wastewater Treatment Facility, the permittee shall place in the immediate repair and replacement account an amount equal to at least 15% of the estimated construction cost of the facility. At least 30 days prior to renewal or transfer of a permit for an existing Privately Owned Wastewater Treatment Facility, sufficient funds shall be placed in the immediate repair and replacement account so that the total amount in

the account equals at least 15% of the estimated construction cost of the facility. All permitees responsible for the operation of a Privately Owned Wastewater Treatment Facility shall keep an amount equal to at least 15% of the estimated construction cost of the facility in the immediate repair and replacement account and shall replenish the account within 90 days of any disbursement.

(b) Capital Reserve Account. Within 15 years from the date the Privately Owned Wastewater Treatment Facility commences operation, the permittee shall accumulate in the capital reserve account sufficient funds to replace the Privately Owned Wastewater Treatment Facility or portions thereof and all other mechanical equipment associated with wastewater treatment and collection but not including land, grounds or disposal area. The permittee shall meet this requirement by accumulating in the capital reserve account an amount that is at least equal to 25% of the estimated construction cost on or before the date 15 years from the date the Privately Owned Wastewater Treatment Facility commenced operation. The Department approved form establishing the financial assurance mechanism shall set out a schedule for accumulating the required amount in the capital reserve account. The permittee shall deposit the amount required to be accumulated in the capital reserve account as provided herein in accordance with the schedule set forth in the Department approved form establishing the financial assurance mechanism. For permittees with treatment facilities that have been in operation for more than 15 years, the Department may require the permittee to accumulate in the capital reserve account funds in addition to 25% of the estimated construction cost of the facility, if the Department determines that based on the age and condition of the facility, additional funds are necessary to ensure the facility can continue to operate in a manner that adequately protects the public health or the environment. For such permittees, the Department will establish a schedule for the accumulation of capital in the capital reserve account based on the age and condition of the facility. This schedule shall be incorporated into the Department approved form establishing the financial assurance mechanism.

(c) For both the immediate repair and replacement account and the capital reserve account, the estimated construction cost of the wastewater treatment facility shall include the cost of constructing the wastewater treatment plant, the collection system and all mechanical equipment associated with the wastewater treatment plant and collection system. The estimated construction cost shall not include the cost of the land, grounds or the disposal area.

(4) Unless otherwise determined by the Department, the permittee shall submit to the Department for its review and approval an engineering report prepared by a Massachusetts Registered Engineer with a concentration in civil, sanitary or environmental engineering and a companion financial plan, when applying for permit renewal for a Privately Owned Wastewater Treatment Facility that has been in operation for more than 14 years. The engineering report shall outline in sufficient detail what facility modifications or other changes, if any, are needed to ensure that the Privately Owned Wastewater Treatment Facility can remain in compliance with the permit through the next 5 year permit term and beyond. The companion financial plan shall contain cost estimates for implementing the proposed facility modifications and other changes identified in the engineering report and demonstrate how the permittee will finance the needed facility modifications or other changes on or before the date 20 years from the date that the Privately Owned Wastewater Treatment Facility commenced operation. The permittee shall implement the modifications and other changes identified in the engineering report as approved by the Department on or before the date 20 years from the date that the Privately Owned Wastewater Treatment Facility commenced operation. Notwithstanding the foregoing, the Department may require the permittee to implement the modifications and other changes identified in the engineering report as approved by the Department on a date before the date 20 years from the date that the Privately Owned

Wastewater Treatment Facility commenced operation, if the Department determines that an earlier implementation date is necessary to protect the public health or the environment or to bring the facility into compliance with 314 CMR 5.00 or the permit.

(5) The Department may require submission of the engineering report and companion financial plan described in 314 CMR 5.15(4) when a permittee operating a Privately Owned Wastewater Treatment Facility that has been in operation for more than 19 years applies for permit renewal, if the permittee did not submit said report and plan with its last application for permit renewal or if the Department determines that submission of said report and plan is necessary to ensure that the facility can operate in a manner that adequately protects the public health or the environment.

5.16: Individual and General Permits for " Storm Water Discharges"

(1) The Department may issue general permits for "storm water discharges" from certain land uses with higher potential pollutant loads such as automobile fueling facilities and parking lots with high intensity use.

(2) Each individual permit and each general permit for a "storm water discharge" as defined in 314 CMR 5.04(2) shall require the permittee to implement structural and nonstructural stormwater best management practices, erosion and sedimentation control measures, operation and maintenance measures, and measures to eliminate and prevent illicit discharges to the stormwater management system in accordance with the Stormwater Management Standards set forth in 314 CMR 9.06(6)(a) and the Massachusetts Stormwater Handbook. Each individual permit and each general permit shall require the permittee to report to the Department in writing on the implementation of the required measures and practices.

(3) Individual permits may contain additional requirements such as effluent limitations and monitoring requirements to assess the effectiveness of the required structural and nonstructural stormwater best management practices, erosion and sedimentation control measures, operation and maintenance measures, and illicit discharge removal and prevention measures to protect the ground water as an actual or potential potable water source, to protect surface waters for their existing and designated uses and to assure the attainment and maintenance of the surface water quality standards in accordance with 314 CMR 4.00.

(4) A complete application for an individual permit for a "storm water discharge" as defined in 314 CMR 5.04(2) and a complete notice of intent requesting coverage under a general permit for a "storm water discharge" shall include documentation that:

(a) nonstructural stormwater best practical measures have been implemented or are proposed to be implemented to protect any land uses with a higher potential pollutant load as defined in 314 CMR 5.02 from any exposure to rain, snow, snow melt and runoff;

(b) at the point of discharge to the ground, the "storm water discharge" complies or is proposed to comply with the Stormwater Management Standards set forth in 314 CMR 9.06(6)(a) and the Massachusetts Stormwater Handbook;

(c) the stormwater management system has been designed in accordance with the Stormwater Management Standards set forth in 314 CMR 9.06(6)(a) and the Massachusetts Stormwater Handbook;

(d) plans for pollution prevention, erosion and sedimentation control, the operation and

maintenance of the stormwater management system, and the prevention and removal of illicit discharges to the stormwater management system have been developed in accordance with the Stormwater Management Standards set forth in 314 CMR 9.06(6)(a) and the Massachusetts Stormwater Handbook;

(e) the "storm water discharge" complies or is proposed to comply with all applicable state and federal requirements, including without limitation, any requirements to apply for and obtain coverage under the NPDES Multi-Sector General Permit and/or the NPDES Construction General Permit, any requirements under an individual and/or general NPDES Permit, any requirements to apply for and obtain an Order of Conditions under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40, and the Wetlands Protection Act, Regulations, 310 CMR 10.00 any requirements of a Final Order of Conditions issued pursuant to M.G.L. c. 131, § 40 and 310 CMR 10.00, and any requirements of 314 CMR 9.00;

(f) a Massachusetts Registered Professional Engineer with a concentration in environmental engineering has certified that the existing or proposed "storm water discharge" and the associated stormwater management system, pollution prevention plan, erosion and sedimentation control plan, operation and maintenance plan, illicit discharge prevention and removal plan complies with the Stormwater Management Standards set forth in 314 CMR 9.06(6)(a), the Massachusetts Stormwater Handbook, all applicable requirements of the Federal Act, the Massachusetts Wetlands Protection Act, 314 CMR 3.00,and 314 CMR 5.00, and 314 CMR 9.00; and

(g) identifies the party responsible for the operation, maintenance, repair and replacement of the stormwater management system, and includes the signature by the person authorized to sign for the responsible party in accordance with 314 CMR 5.14 along with the certification required by 314 CMR 5.14.

(5) The Department may also require a complete application for an individual permit for a "storm water discharge" to include a monitoring plan.

(6) A complete notice of intent requesting coverage under a general permit for a "storm water discharge" shall also include documentation that public notice has been provided in accordance with 314 CMR 2.00, the general permit and that based on the certification of a Massachusetts Registered Professional Engineer with a certification in environmental engineering, the Department is considering whether to grant coverage under the general permit for the existing or proposed "storm water discharge".

(7) If the party responsible for the operation, maintenance, repair, and replacement of the stormwater management system proposed in the notice of intent is a private entity, the notice of intent shall include documentation that:

(a) The party responsible for the operation, maintenance, repair and replacement of the stormwater management system is a single entity comprised of all stakeholders. For purpose of this requirement, the term stakeholders shall include the owners of all properties whose stormwater is managed or proposed to be managed by the system.

(b) The entity will not change its organizational arrangements, nor sell, assign or transfer the stormwater management system without the prior written approval of the Department.

(c) The entity owns the land on which the stormwater management system is located or has

easements that provide sufficient access to said land for the purpose of operation, maintenance, repair or replacement of the system.

(d) All stakeholders share the financial and operational responsibilities for the operation, maintenance, repair and replacement of the stormwater management system.

(e) The entity responsible for the operation, maintenance, repair and replacement of the stormwater management system has the authority to institute a user charge system sufficient to generate adequate revenue and to enforce such charges in a manner equivalent to a municipal fee, tax, or betterment assessment.

(8) If a permittee seeks to modify a stormwater management system or any stormwater best management practices authorized by an individual or general permit, the permittee shall submit documentation to the Department at least 30 days before commencing the modification that the stormwater management system with the proposed modification will enable the permittee to comply with all the terms and conditions of the permit, the Stormwater Management Standards set forth in 314 CMR 9.06(6), the Massachusetts Stormwater Handbook and all applicable laws and regulations, including without limitation the Wetlands Protection Act, M.G.L. c. 131 § 40 and the Wetlands Protection Act Regulations, 310 CMR 10.00. If the discharge is authorized by an individual permit, the permittee shall not commence the proposed modification unless and until it is approved by the Department in writing.

5.17: Reserved

5.18: Reserved

5.19: General Conditions

The following conditions apply to all individual and general permits:

(1) No discharge authorized in the permit shall result in a violation of the Massachusetts Surface Water Quality Standards (314 CMR 4.00) or any amendments thereto. Upon promulgation of any amended standard, this permit may be revised or amended in accordance with such standard and 314 CMR 2.10 and 3.12 or 5.12

(2) Duty to comply. The permittee shall comply at all times with the terms and conditions of the permit, 314 CMR, M.G.L. c. 21, §§ 26 through 53 and all other applicable state and federal statutes and regulations.

(3) Standards and prohibitions toxic pollutants. The permittee shall comply with effluent standards or prohibitions established under the Federal Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

(4) Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and equipment installed or used to achieve compliance with the terms and conditions of the permit, in accordance with 314 CMR 12.00, Operation and Maintenance and Pretreatment Standards for Wastewater Treatment Works and Dischargers, and 257 CMR 2.00, Rules and Regulations for Certification of Operators of Wastewater Treatment Facilities.

(5) Duty to halt or reduce activity. Upon reduction, loss, or failure of the treatment facility or best management

practice, the permittee shall, to the extent necessary to maintain compliance with its permit, control production or discharges or both until the facility is restored or an alternative method of treatment is provided. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.

(6) Power Failure. In order to maintain compliance with the effluent limitations and prohibitions of this permit, the permittee shall either:

(a) provide an alternative power source sufficient to operate all wastewater control facilities; or

(b) halt, reduce or otherwise control production and/or all discharges upon the reduction, loss, or failure of the primary source of power to the wastewater control facilities.

(7) Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any adverse impact on human health or the environment resulting from non-compliance with the permit.

(8) Duty to provide information. The permittee shall furnish to the Department within a reasonable time any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit, or to determine whether the permittee is complying with the terms and conditions of the permit.

(9) Inspection and entry. The permittee shall allow the Department or its authorized representatives to:

(a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records required by the permit are kept;

(b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(c) Inspect at reasonable times any facilities, equipment, practices, or operations regulated or required under the permit; and

(d) Sample or monitor at reasonable times for the purpose of determining compliance with the terms and conditions of the permit.

(9A) The permittee shall physically secure the treatment works and monitoring wells and limit access to the treatment works and monitoring wells to those personnel required to operate, inspect and maintain the treatment works and to collect samples.

(9B) The permittee shall identify each monitoring well by permanently affixing to the steel protective casing of the well a tag with the identification number listed in the permit.

(10) Monitoring. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 unless other test procedures are specified in the permit.

(11) Recordkeeping. The permittee shall retain records of all monitoring information including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by the permit, and all records of all data used to complete the application for the permit, for a period of at least three years from the date of the sample, measurement, report or application. This

period may be extended by request of the Department at any time. Records of monitoring information shall include:

(a) The date, exact place, and time of sampling or measurements;

(b) The individual(s) who performed the sampling or measurement;

(c) The date(s) analyses were performed;

(d) The individual(s) who performed the analyses;

(e) The analytical techniques or methods used; and

(f) The results of such analyses.

(12) Prohibition of bypassing. Except as provided in 314 CMR 5.19(13), bypassing is prohibited, and the Department may take enforcement action against a permittee for bypassing, unless:

(a) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the permittee could have installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(c) The permittee submitted notice of the bypass to the Department:

In the event of an anticipated bypass at least ten days in advance, if possible; or

In the event of an unanticipated bypass as soon as the permittee has knowledge of the bypass and no later than 24 hours after its first occurrence.

(13) Bypass not exceeding limitations. The permittee may allow a bypass to occur which does not cause effluent limitations to be exceeded, but only if necessary for the performance of essential maintenance or to assure efficient operation of treatment facilities.

(14) Permit actions. The permit may be modified, suspended, or revoked for cause. The filing of a request by the permittee for a permit modification, reissuance, or termination, or a notification of planned changes or anticipated non-compliance does not stay any permit condition.

(15) Duty to reapply. If the permittee wishes to continue an activity regulated by the permit after the expiration date of the permit, the permittee must apply for and obtain a new permit. The permittee shall submit a new application at least 60 days before the expiration date of the existing permit, unless permission for a later date has been granted by the Department in writing.

(16) Property rights. The permit does not convey any property rights of any sort or any exclusive privilege.

(17) Other laws. The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, nor does it relieve the permittee of its obligation to comply with any other applicable

Federal, State, and local laws and regulations.

(18) Oil and hazardous substance liability. Nothing in the permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under § 311 of the Federal Act, and M.G.L. c. 21E.

(19) Removed substances. Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed in a manner consistent with applicable Federal and State laws and regulations including, but not limited to, the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26 through 53 and the Federal Act 33 U.S.C. 1251 *et seq*, the Massachusetts Hazardous Waste Management Act, M.G.L. c. 21C, and the federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq.*, 310 CMR 19.00 and 30.000, and other applicable regulations.

(20) Reporting requirements.

(a) Monitoring reports. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) at the intervals specified elsewhere in the permit. If the permittee monitors any pollutant more frequently than required by the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.

(b) Compliance schedules. Reports of compliance or non-compliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit shall be submitted no later than 14 days following each schedule date.

(c) Planned changes. The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility or activity, which could significantly change the nature or increase the quantity of pollutants discharged. Unless and until the permit is modified, any new or increased discharge in excess of permit limits or not specifically authorized by the permit constitutes a violation.

(d) Anticipated non-compliance. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity, which may result in non-compliance with permit requirements.

(e) 24-hour reporting. The permittee shall report any non-compliance, which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the non-compliance, including exact dates and times, and if the non-compliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the non-compliance. The following shall be included as information, which must be reported within 24 hours:

1. Any unanticipated bypass, which exceeds any effluent limitation in the permit.
2. Violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in the permit to be reported within 24 hours.

(f) Other non-compliance. The permittee shall report all instances of non-compliance not reported under 314 CMR 5.19(20)(a), (b), or (e) at the time monitoring reports are submitted. The reports shall contain the information listed in 314 CMR 5.19(20)(e).

(g) Toxics. All manufacturing, commercial, mining, or silvicultural dischargers must notify the Department as soon as they know or have reason to believe:

1. That any activity has occurred or will occur which would result in the discharge of any toxic pollutant listed in 314 CMR3.17 which is not limited in the permit, if that discharge will exceed the highest of the following notification levels:

a. 100 micrograms per liter (100 ug/l);
b. 200 micrograms per liter (200 ug/l) for acrolein and acrylonitrile; 500 micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
c. Five times the maximum concentration value reported for that pollutant in the permit application; or

2. That they have begun or expect to begin to use or manufacture as an intermediate or final product or byproduct any toxic pollutant, which was not reported in the permit application.

(h) Indirect dischargers. All Publicly Owned Treatment Works shall provide adequate notice to the Department of the following:

1. Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to § 301 or 306 of the Federal Act if it were directly discharging those pollutants; and

2. Any substantial change in the volume or character of pollutants being introduced into the POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.

For purposes of 314 CMR 5.19, adequate notice shall include information on the quality and quantity of effluent introduced into the POTW, and any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

(i) Information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

(21) Signatory requirement. All applications, reports, or information submitted to the Department shall be signed and certified in accordance with 314 CMR 3.14 and 5.14.

(22) Severability. The provisions of the permit are severable, and if any provision of the permit, or the application of any provision of the permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of the permit, shall not be affected thereby.

(23) Reopener clause. The Department reserves the right to make appropriate revisions to the permit in order to establish any appropriate effluent limitations, schedules of compliance, or other provisions which may be authorized under the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26 through 53 or the Federal Act, 33 U.S.C. 1251 *et seq* in order to bring all discharges into compliance with said statutes.

(24) Approval of treatment works. All discharges and associated treatment works authorized herein shall be consistent with the terms and conditions of this permit. Any modification to the approved treatment works shall require written approval of the Department prior to construction of the modification.

(25) Transfer of Permits.

(a) RCRA facilities. Any permit which authorizes the operation of a RCRA facility, which is subject to the requirements of 314 CMR 8.07 shall be valid only for the person to whom it is issued and may not be transferred.

(b) Transfers by modification. A permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued in accordance with 314 CMR 2.00 or a minor modification is made in accordance with 314 CMR 5.12 (3)(d).

(26) Permit Fees. Any permittee, other than a local government unit, required to obtain a surface water or ground water discharge permit pursuant to M.G.L. c. 21, § 43 and 314 CMR 3.00 and 5.00, shall be required to submit an annual compliance assurance fee in accordance with 310 CMR 4.00

REGULATORY AUTHORITY

314 CMR 5.00: M.G.L. c. 21, §§ 7(12) and 43.